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OVERSIGHT OF THE FEDERAL COMMUNICATIONS COMMISSION

THURSDAY, SEPTEMBER 17, 2009

House of Representatives,

Subcommittee on Communications, Technology,

and the Internet,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to notice, at 10:06 a.m., in Room 2123, Rayburn House Office Building, Hon. Rick Boucher [chairman of the subcommittee] presiding.

Present: Representatives Boucher, Markey, Rush, Eshoo, Stupak, Doyle, Inslee, Weiner, Butterfield, Matsui, Christensen, Castor, Space, Welch, Dingell, Waxman (Ex Officio), Stearns, Upton, Deal, Shimkus, Shadegg, Blunt, Buyer, Walden, Terry, Rogers, Blackburn, and Barton (Ex Officio).

Staff Present: Neil Fried, Minority Counsel; and Garrett Golding, Minority Legislative Analyst.

Mr. Boucher. Good morning to everyone. Today the subcommittee conducts its first oversight hearing of the Federal Communications Commission during the course of the 111th Congress. This hearing was postponed from the originally scheduled date in July, and one benefit of the postponement is that today we have a full complement of FCC commissioners before us. I am pleased to welcome each of you this morning. And I would note that for Chairman Julius Genachowski and Commissioners Mignon Clyburn and Meredith Baker, today marks their inaugural appearance before the House as members of the FCC. We look forward to seeing more of each of you in the months to come and to working closely with you as together we address the Nation's telecommunications needs.

Before commenting on current issues, I want to take this opportunity to commend Commissioner Copps for his leadership in helping to assure the DTV transition and serving as acting chairman with great distinction during a period of several busy months. Your commitment, Commissioner Copps, to consumer education and including the deployment of knowledgeable staff around the Nation was essential to ensuring that the vast majority of households were prepared for the transition on the transition date of June 13.

I also want to commend Commissioner McDowell for his collaboration with Commissioner Copps on that effort, and particularly thank him for his role in bringing attention to the

fact that, as of last January, the FCC's call centers were inadequately staffed and badly underprepared to handle the expected high volume of calls from viewers who were seeking technical assistance.

Chairman Genachowski, from our previous discussions, I am very much aware of the priority that you are assigning to the creation of a broadband plan for the Nation which is due in mid February next year. The blueprint is urgently needed to promote universal broadband access, to achieve data rates that are substantially higher than the average speeds that users have available today, and to promote greater demand for broadband among those who have access but choose not to subscribe to it. I know that you share these goals, and we look forward to working with you very closely as you prepare this plan, and look forward to the plan that you will present in the early months of next year.

Many other matters are receiving both our attention and yours. I will comment briefly on several of them, and ask for any views you care to express this morning about these matters.

Our subcommittee has scheduled an upcoming hearing on the need for a Nationwide fully interoperable communications network for first responders, during which we will hear from first responders, from commercial wireless carriers, and from other interested parties. A variety of proposals has been put forth for how the DBLOCK of 700 megahertz spectrum should be utilized in meeting that goal. And if you have given attention to this matter

and have any thoughts you would like to share with us this morning about how we can assure that our Nation has fully interoperable communications capabilities for first responders, we would welcome those views.

We are having bipartisan discussions among our subcommittee members about an appropriate statutory reform of the Federal Universal Service Fund, and I anticipate that a comprehensive reform measure, a bill, will be introduced by subcommittee members with bipartisan support in the very near future. We have introduced with bipartisan support a measure designed to inventory the radio spectrum with the goal of making available additional spectrum for commercial wireless services. And later in this Congress, we intend to put forward legislation broader needs with respect to wireless services and a measure extending a clear set of privacy rights to Internet users. I expect that each of these measures will be constructed in a bipartisan process and be introduced with bipartisan participation. Any views that you currently have on this range of matters and would care to express to us this morning, we would be very happy to hear.

Today's hearing is an opportunity for Chairman Genachowski and Commission members to tell us about their agenda for upcoming efforts to enhance our Nation's telecommunications capabilities, and we very much look forward to your testimony and thank you for your time here with us this morning.

That concludes my opening statement. I am pleased now to

recognize our ranking Republican member of the subcommittee, the gentleman from Florida, Mr. Stearns.

Mr. Stearns. Good morning. And thank you, Mr. Chairman. Thank you for having this very important hearing. This subcommittee's oversight of the FCC is obviously one of its primary missions. I would like to welcome Chairman Genachowski and Commissioners Clyburn and Baker who, as the chairman mentioned, are testifying to our committee for the first time. I appreciate your willingness to appear before us today so we can better understand perhaps what your priorities are and how we can all work together. I also want to take this moment to thank Commissioner Baker for her work at the NTIA to make the DTV coupon program work despite the last-minute delays by my colleagues. So I want to recognize her for her strong efforts.

Perhaps I could say I wish the Commission to adhere to the Hippocratic oath, do no harm. The communication sector has not been immune from the economic distress that has been faced by the country during the last year. The FCC's goals should be to help the communications sector to recover and, frankly, to encourage companies to invest in new facilities and equipment that will bring broadband connection faster to most Americans.

The stimulus requires the FCC to present Congress with a national broadband plan by February 17, 2010. For broadband to reach its full potential in this country and be a truly transformative factor in our economy, the Commission must not

undermine the climate it has helped to create over the last few years; that is, encouraging massive private investment in broadband.

While many wring their hands over the OECD ratings and ranking, we are I think, frankly, doing well. The Pew Internet & American Life Project reports that 63 percent of U.S. households have adopted broadband as of April 2009, up from 53 percent in May 2008. By contrast, the European Commission says that only 36 percent of the European Union households have such service.

From 2001 to 2008, the FCC charted the right course for the broadband market, employing a light regulatory touch to encourage this investment. The result was the exponential growth in broadband subscribership and bandwidth consumption. But a reversal by the FCC of the current regulatory framework would greatly undermine investment at a rather inopportune time.

There has been some speculation about what the new Commission is going to do about net neutrality regulations. Everybody wants the Internet to remain open and accessible, but many of us are concerned that adopting new policies involving net neutrality could impede network operators from bringing new Internet-based products and services that consumers want. At this stage of the game, when the Internet is still evolving, government intervention in the form of net neutrality regulation is both unnecessary and anti-consumer.

Along with broadband, the Commission has opened multiple

inquiries into the wireless industry. The wireless sector is a great success story and one of the real bright spots in the otherwise challenged economy today. More than 99 percent of the consumers have one or more choices in wireless carriers; more than 95 percent have three or more choices; more than 90 percent have four or more choices; and, almost 65 percent have five or more choices today. Indeed, the U.S. wireless market is the second least concentrated of all the 26 OECD nations. So, as a result, wireless consumers today are paying less for better services. In fact, between 1993 and 2008, the average local monthly bill has dropped to $51 from $101 in constant dollars. During this same timeframe the cost per minute has dropped to 4 cents from 44 cents, and the average minutes of use has grown from 140 to 758k the most of any country.

Now, on the subject of spectrum. I hope the commissioners and members of this subcommittee will work closely to secure additional spectrum for commercial use. As recent press reports have noted, the explosive growth and the demand for bandwidth as consumers access new applications and upload user-generated content will tax the limits of carriers' capacity probably more quickly than most of us realize. While advances in technology can help solve this problem by allowing for the more efficient use of spectrum, policymakers will have to do our part by making more of this critical resource available. Many of our international trading partners are already taking steps to make additional

spectrum available in their markets. If we fail to do so, we risk ceding our global leadership in wireless service and innovation.

So, for this reason, I urge my colleagues to support the bipartisan spectrum inventory legislation, which I hope we can act upon this year, Mr. Chairman.

As we can tell, the FCC will be very busy in the upcoming year and next year, so I look forward to hearing from our witnesses. Thank you.

[The prepared statement of Mr. Stearns follows:]

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Mr. Boucher. Thank you very much, Mr. Stearns. The chairman of the full Energy and Commerce Committee, the gentleman from California, Mr. Waxman, is recognized for 5 minutes.

The Chairman. Thank you very much, Mr. Chairman. I want to welcome the full FCC here for our very first oversight hearing, and especially the new chair, Mr. Genachowski. I would like to join you in thanking Commissioner Copps for his outstanding work as interim FCC chair. Under his able leadership, the digital television transition went well, and the Commission got back to business. Thank you for your service. And I would like to thank Commissioners McDowell and Baker for the important roles they played in the DTV transmission. We are all aware of their commendable efforts to help improve the transition.

Chairman Genachowski, you take the helm at a critical time in the Communication's policy, and I am confident that you can continue Commissioner Copps' work of getting the Commission staff organized, energized, and focused on consumers. I know that your colleagues at the Commission are enthusiastic about your collaborative leadership and your vision for the Agency.

I am pleased that the Commission has already launched a comprehensive proceeding to craft a national broadband plan. This is of immense importance to virtually every aspect of our society and how we will function in the 21st century. The success of your work will be essential to delivery of health care, education, to

jobs, economic growth, to science and the arts, to journalism and the media. Indeed, your forthcoming national broadband plan is critical to America's competitiveness and leadership in the world.

Of course, any broadband plan must address issues related to wireless broadband, including spectrum availability. The committee has before it a bipartisan spectrum inventory bill that would start the critical process of making more spectrum available for broadband services. The FCC will play a critical role in this process, and I am confident that you understand the need to do so efficiently and quickly.

We also need to consider ways we might expedite the construction of the wireless facilities that are critical to broadband deployment. This is an infrastructure issue that is critical to the successful deployment of broadband services. Simply put, without additional facilities, there will be no additional broadband. And I am particularly interested to learn how broadband can help other initiatives important to this committee, including smart grid technologies and the health IT transformation.

President Obama has made ensuring an open Internet a central plank in his communications policy platform, and he has my full support. The Internet is a vital doorway to opportunity for many, whether to distribute new content, to develop a new application, or simply to search for a new job. We must ensure that the Internet remains the engine of economic growth and technological

innovation that helps propel our people and our economy forward.

The fear some have professed that net neutrality rules will stifle network investment have proven unfounded over the years. Most recently, over 2,200 public and private entities applied for broadband grants and, in so doing, opted in to net neutrality rules. Industry will benefit from clarity, consistency, and predictability with regard to net neutrality. As a member who has worked hard to protect the intellectual property rights of our creative communities, I do not believe net neutrality and strong copyright protection are mutually exclusive goals. In fact, clear net neutrality rules should help broadband network operators explore innovative steps designed to stop the theft of online content.

I know that our new FCC chairman shares my perspective on the importance of achieving both goals.

For these reasons, I think that the time is right to formally establish, through legislation, if required, the rules of the road with respect to net neutrality. Accordingly, I have asked Mr. Markey to add me as a cosponsor to H.R. 3458, the Internet Freedom Preservation Act. And I will also continue to support Chairman Boucher's efforts to lead willing parties to a negotiated solution.

I also support the Commission's effort to examine the state of competition in the wireless industry. Most agree that the best protection for consumers is robust competition. And while I

recognize the competitive nature of the wireless industry, I do see some warning clouds on the horizon. More specifically, I believe the FCC should act soon to resolve problems with special access services and certain roaming arrangements.

I want to thank the Commission for making public safety's need a top priority and initiating a study of the options for the DBLOCK. We must act soon to improve the state of public safety communications, and I am anxious to review your plans and to work with you to ensure we find the most effective way for the public safety community to obtain access to the spectrum it needs. And I am pleased that Chairman Boucher plans to hold a hearing on this topic in the near future.

Clearly, I have only touched on a few of the critical issues before the new FCC, but I am encouraged by the new spirit of comity and collaboration that you all espouse, and I hope that Congress will approach these important policy issues in the same manner. I look forward to your testimony and the hearing. Thank you, Mr. Chairman.

Mr. Boucher. Thank you very much, Chairman Waxman. The gentleman from Michigan, Mr. Upton, is recognized for two minutes.

Mr. Upton. I am going to waive.

Mr. Boucher. The gentleman from Michigan waives his opening statement and will have 2 minutes added to his questioning time for our witnesses this morning. The gentleman from Illinois, Mr. Shimkus, is recognized for two minutes.

Mr. Shimkus. Thank you, Mr. Chairman. I will try to go quick also.

I appreciate the commissioners present and the opportunity to sit down with most of you. Some of you I have known for a while, and the new folks, and have taken that time, very, very helpful and important. Chairman Genachowski, I appreciate your meeting with me and then rapidly putting the kids.gov link up on the FCC site, something Ed Markey and I have been working on for a long time and you identified that it wasn't being promoted and you responded rapidly. And that was on your own initiative, not mine.

DBLOCK is critical. I have been in the 911 emergency communications issue, along with Anna, for many, many years now, and we just have to get this right and be prepared for the next time, before the next time happens. And you all know what I am talking about.

The Nationwide broadband deployment without having a Nationwide broadband map is it putting the cart without the horse. Southern Illinois looked at the Kentucky model, and we think that is important. And siting of towers. We have eventually got to have a time when the debate stops and we get tower site, especially in rural areas. If there is no wireless, there is no E-911. And in the end, I want to thank the coalition of more than 50 public interest groups and civil rights groups for reminding the me that the fairness doctrine is still part of the debate. Now, I went through and my staff went through the Republican staff

briefing. Nothing was talked about on the fairness doctrine. But because these groups have now raised it, there may be some debate on the fairness doctrine. I think there is a congressional majority vote on the floor in opposition to reinstituting the fairness doctrine. We are ready to continue to have those debates, but it is just curious that we wouldn't have mentioned it had these groups not intervened. And I yield back the balance of my time.

Mr. Boucher. Thank you very much, Mr. Shimkus. The gentleman from Massachusetts, Mr. Markey, is recognized for 2 minutes.

Mr. Markey. I thank the chairman very much, and I welcome our incredible new cast, Chairman Genachowski and Commissioner Clyburn, Commissioner Baker, as well as our two veterans, Commissioner Copps and Commissioner McDowell. Welcome back.

As the author -- and, by the way, someone who served our committee for 20 years, Colin Crowell, who is sitting behind you there, just sitting over their shoulder instead of mine as he has for all these years. As the author of the amendment requiring the development of a national broadband plan by next February, I am particularly interested in the Commission's progress in this area. The national broadband plan is among the most significant things the Commission will do since the implementation of the Telecom Act of 1996, and it is essential that we get it right. I would emphasize the opportunity we have given to you, and I urge you to

dream big in terms of the plan you put together for our country. Give us a plan that speaks to our highest aspirations as a society, not just to promote greater broadband availability, affordability, speeds, or competition, which we certainly need, but also a plan that animates technology policy with ideas for addressing opportunity, advancing better quality, and more affordable health care, and spurring greater innovation to lesser our independence on foreign oil through energy efficiency, smart grid technologies.

I will be proposing measures such as E-Rate 2.0, building upon my original conception of the E-Rate from 1994, which included community colleges and Head Start facilities in the program. This is but one of several ideas that I would be suggesting.

The same thing is true for net neutrality, as Chairman Waxman and Congresswoman Eshoo have always been focusing upon. Special access. We have to ensure that we get that issue right. I have introduced a bill on video accessibility and 21st century communications to make sure that all consumers, regardless of disability, have access to all of these new technologies. And I do believe that it's important for us to look at this handset exclusivity issue.

And one other thing I would just like to add is that nothing drives people crazier than to buy a new phone from the same company, and then you have to buy a charger for that new rather

than having the old one that you have already purchased from that company work. So can we do something about that? That drives people crazy. Okay? They just hate it. So I would like to make that for you a special project, because people wind up with all these chargers over a number of years and one of them was working very well for them. Thank you, Mr. Chairman.

Mr. Boucher. Thank you very much, Mr. Markey.

The gentleman from Missouri, Mr. Blunt, is recognized for 2 minutes.

Mr. Blunt. Thank you, Mr. Chairman. And I want to join everyone else in welcoming the Commission here today, particularly our new commissioners. I would like to say, specifically to Commissioner Clyburn, that her dad and I were the whips together for one Congress, we talked virtually every single day of that Congress, and he is a good friend of mine and I look forward to doing what I can to be helpful to you and the other commissioners, and we are glad to have all of you here today.

This is important work. It is work that it is really hard to anticipate the changes that will occur. Talking earlier today about a telecom bill that we worked on just a few years ago, by the time we got to the end of that particular piece of legislation, it seems to me that nothing we debated at the beginning of the legislation still mattered by the time we were still 5 years beyond that debate, and that is the world that you live in and have to work with. Certainly it is a dynamic area.

It is competitive. The ingenuity, the entrepreneurialism, the competitive spirit in telecommunications has made a big difference. There are a couple of issues that obviously this committee will be divided on or at least a number of issues.

One would be net neutrality. My personal view is that we have to be very careful here that any policy that deals with net neutrality, a topic that the definition constantly seems to change on what it means, we have to be careful with net neutrality that we don't undermine both the ability of network managers to allow for efficient flow of traffic and that we don't undermine the ability of the private sector to get the funding and investment that they have grown accustomed to.

Second, I want to join Mr. Shimkus in expressing my concern about any return to the so-called fairness doctrine, and also any return to that doctrine through some sort of new definition of localism that would really have as its objective returning to that doctrine. There are lots of issues that we will be talking about today and in the future, spectrum allocation, handset explicivity, a national broadband plan, and many others. This is an incredibly important assignment for our two commissioners who continue to be on the Commission, for the three of you, including the chairman that join them, and I hope we can be helpful in your work and certainly we are going to be incredibly interested in the work that you do. And we are glad to have you here today.

Mr. Boucher. Thank you very much, Mr. Blunt. The gentleman

from Michigan, Mr. Stupak, is recognized for 2 minutes.

Mr. Stupak. Thank you, Mr. Chairman, for convening this hearing. I want to welcome our returning witnesses, Chairman Genachowski, Commissioner Copps, and Commissioner McDowell, as well as our new witnesses, Commissioners Clyburn and Baker. Welcome.

Today's hearing represents an opportunity for a fresh start for the agency and for the telecommunications industry. Last year, after an extensive investigation by our Subcommittee on Oversight and Investigations, the committee issued a report titled Deception and Distrust detailing the mismanagement that had occurred at the FCC over the past few years. This mismanagement included the manipulation and suppression of reports and data that did not agree with the former chairman's agenda and a lack of unfettered access to expert FCC staff by the commissioners. I don't want to rehash the specifics of the report, but I encourage you, if you have not already, to read it.

The FCC has an enormous responsibility, coupled with extensive authority, to make decisions that affect the lives of millions of Americans and billions of dollars in private and public money. With so much at stake, it is your duty to ensure that the regulatory decisions you make are done in a transparent manner and are based in facts. Not everyone will be happy with what you decide, but they should at least feel that they had a fair opportunity to present their case before the Commission.

The best way the FCC can promote private investment and innovation within the vast universe telecommunications market is to provide certainty, the certainty that the FCC will consistently make regulatory decisions in a timely, thoughtful, and fair manner which benefits consumers and promotes competition. I look forward to discussing with you a number of issues, old and new, that are pending before the Commission. Thank you for being here. And thank you, Mr. Chairman.

Mr. Boucher. Thank you very much, Mr. Stupak. The gentlelady from Tennessee, Mrs. Blackburn, is recognized for 2 minutes.

Mrs. Blackburn. Thank you, Mr. Chairman. Welcome to all of you. We have talked about different issues that are going to come before us, and of course we are going to look forward to working with you on these. I want to highlight just a couple of these as we start our hearing today.

Net neutrality and control over the Internet is something that is important to me and to my Tennessee constituents and content producers. It is a very important issue. I think we all agree that the market is very competitive and it shows no signs of failure. So I am very weary of talk or efforts to increase regulations where there is really no compelling case to do so. And it has been very well documented, the investment that is taking place by the technology companies into product and cutting edge technologies and services, and I fear that doing anything to

thwart that investment or to disincentivize these companies would have broad repercussions. And I hope you all take that into account before you move forward with the any kind of implementation.

The other component of that is broadband, and the investment in broadband does result in jobs. And if companies are not able to control their content, then they are going to have less money to make those investments and to create new employment opportunities. And seeing investment in infrastructure remain strong has been encouraging. And I read a Brookings Institute study that showed where a 1 percentage point increase in broadband penetration in a State, that that led to a .2 or .3 percent increase in employment numbers. And I think that is worth looking at. I appreciate you all being here. I look forward to the conversation. Yield back my time.

Mr. Boucher. Thank you very much, Mrs. Blackburn. The gentleman from California, Mr. McNerney, is recognized for 2 minutes.

Mr. McNerney. Thank you, Mr. Chairman, for convening today's hearing. And I want to thank Chairman Genachowski, Commissioners Copps, McDowell, Clyburn, and Baker. I am looking forward to getting a chance to know your opinions on these issues and getting to know you personally a little bit this morning.

The FCC is working on a range of important and timely issues; however, I want to focus my intention on a couple of areas.

Specifically, the Commission will be offering its insights on competition in the special access market. This is of particular important to numerous stakeholders in the telecommunications industry, and the matter is now pending before your Commission. I look forward to working with the Commission with my colleagues on the committee and with the various stakeholders to find balanced policies.

I am also interested in hearing from the Commission regarding the length of comment periods in response to notices of inquiry. The FCC has an obligation to move forward quickly, but the industry stakeholders should have sufficient time to analyze the proposals, and I want to understand what your thinking is in terms of how those periods are determined.

Now, our country faces some important challenges of personal interest to me, namely, net neutrality and cybersecurity. Regarding cybersecurity, we now face some very big challenges and very great exposure, both in economics and in national security, that prompts me to urge you to move forward aggressively in that area of cybersecurity. And as we hear from the FCC on these and other issues, I am confident that we can work together to find solutions that make a lot of sense for everyone. So thank you for coming. I yield back the balance of my time.

Mr. Boucher. Thank you very much, Mr. McNerney. The ranking Republican member of the full Energy and Commerce Committee, the gentleman from Texas, Mr. Barton, is recognized for 5 minutes.

Mr. Barton. Thank you, Mr. Chairman. I want to compliment you on your timing. I have been here all of 15 seconds. That is pretty good.

Mr. Boucher. We aim to please.

Mr. Barton. Well, let's hope we keep that attitude.

I want to welcome our full Commission to the Energy and Commerce Committee. We have two veterans and three rookies. And to the veterans, I have spoken with each of you individually a number of times, and I appreciate the professionalism and the personal friendship that each of you have exhibited. And to our three new members, I have met with you and I look forward to developing that same sort of relationship.

This is an exciting time for the FCC. There are new opportunities. We have a chairman who has got a very positive relationship with the President of the United States, and that is always a positive. So I think there are some real opportunities to do some good things.

I would recommend that the Commission start by restoring transparency and public faith in the Commission. As our two veteran commissioners know, in the past the Commission has tended to operate, if not exactly in the dark, they certainly have been very opaque. And sunlight and transparency is a good thing in democracy, and it is certainly a good thing in the regulatory agencies.

The Commission in the past has failed to publish the specific

text of its proposed rules, has provided little time or very little time for public comment, it has taken too long to adopt decisions, and it has sometimes taken even months to release the text of the specific item. Because of this and other reasons, Congressman Stearns and I have introduced H.R. 2183 that would address those issues. Obviously, that is not a perfect bill, and we would welcome any insights that the Commission has in terms of how to make it better.

Broadband policy is something that the new chairman has said is a personal interest of his, and my understanding is that there is a new broadband policy that is being drafted or prepared as we speak that is required by the stimulus package. Keep in mind that the state of broadband adoption in the United States is actually better, at least in my opinion, than those that allege is not for self-serving interest in terms of getting more regulation and more public dollars or whatever.

Many will cite the Organization for Economic Cooperation and Development's claim that the U.S. ranks 15th in broadband adoption. This report has been thoroughly discredited for, among other things, calculating penetration per person than per household, and it also ignores wireless connections. As we all know, the United States is one of the most wirelessly connected Nations in the world. Broadband adoption in the United States has been rapid, considering the size and geographic diversity of our country. The Pew Internet & American Life Projects reports that

63 percent of U.S. households have adopted broadband as of April 2009, which is up from 53 percent in May of 2008.

By contrast, the European Commission says that only 36 percent of the European Union households have such service. So I think we are in better shape than we give ourselves credit for. I think that our growth has resulted from a deregulatory approach we have taken towards these advanced services. I know there may be some disagreement amongst our new commissioners, but I think the last thing that we should do is to return to an old, discredited monopoly era regulatory approach, such as forced sharing of network infrastructure and mandatory wholesaling of services. History has shown that those type of policies serve to deter investment, innovation, and competition.

Mr. Chairman, I have got about four more pages of prepared text, so I am going to introduce that for the record because my time is about to expire. Let me simply say that telecommunication policy has been one of those areas where we have had bipartisan cooperation. We just finished the DTV transmission. Commissioner Baker had something to do with that at her previous post, and Commissioner Clyburn has had an impact on that down in South Carolina, and of course our two current commissioners were very involved in that and the chairman has had quite a bit to say about it in his prior private life. So that is, I think, a success in how we can work together, and broadband policy and net neutrality are two areas that still need to be worked on, and hopefully we

can have that continued bipartisan success.

With that, Mr. Chairman, I yield back.

Mr. Boucher. Thank you very much, Mr. Barton. And I assure you that I will read every word of that statement.

Mr. Barton. I am sure you will, too, Mr. Chairman. It is very good.

Mr. Boucher. I am confident of that. The gentlelady from the Virgin Islands, Mrs. Christensen, is recognized for 2 minutes.

Mrs. Christensen. Thank you, Chairman. Congratulations, Chairman Genachowski, and welcome. I appreciated your visit with me and my staff earlier in the year. A special welcome to our new commissioners, Mignon Clyburn and Meredith Atwell Baker. And welcome back, Commissioner McDowell. Our special thanks to Chairman Copps for your leadership during a particularly challenging time. But as all of you have said in your testimony, the challenges have just begun. I also want to acknowledge the helpfulness and responsiveness of the Congressional Affairs staff, the great examples of this staff that you have praised throughout your testimonies.

One thing that really stands out as I looked at your resumes and statements and the ones that you prepared today, that in addition to the intimate familiarity with the depth and breadth of the field of telecommunications is the diverse and dynamic experience you each bring to the task, and that will make for a very strong Commission prepared to tackle the also very dynamic

and diverse challenges.

Chairman Genachowski, I commend you for your methodical, science-based, data-driven approach to these challenges and the in-depth reviews that have taken place or are underway.

Commissioner Clyburn, you spoke a lot on the need to think about the impact on the consumer. I see some of that reflected in other comments. And I look forward to the outcome of a review on minority and women ownership in the industry and the strategies developed to address the lack of diversity.

Lastly, my daughter, who took it upon herself to call one of my carriers to find out why I got a blue tooth that I had not ordered and she knew that I probably would have just kept, will thank you for the work that you do to make sure that consumers like me know what services I have and what I am paying for. So we are pleased to have you here before the committee this morning, and I look forward to your testimonies and to working with all of you.

Mr. Boucher. Thank you very much, Mrs. Christensen. The gentleman from Georgia, Mr. Deal, is recognized for 2 minutes.

Mr. Deal. Thank you. Welcome to all the commissioners here today. As you hear from these opening comments, it indicates the diversity of the issues before you, and I appreciate that fully.

I want to focus, and I will do so in my questions, on one specific area that continues to be a problem that I think is growing larger every day, and that is the issue of content

exclusivity contracts coupled with the licensing that is under your jurisdiction. Now, in the broad general scope of things in the TV, video, marketplace, we all generally talk about that in terms of retransmission consent authority. I am now growing more concerned about that same problem in the radio marketplace, and my question later on to you will focus on that.

As I view what is happening in my State, more licenses are being granted for radio stations based on so-called underserved communities. The only problem is that when the license is granted there may be a tower somewhere close to that community, but the actual station itself is located in another community, in fact, in some instances where three or four separate licensed facilities are in the same building. That, coupled with the content exclusivity, I think creates a monopoly in the marketplace. And I do not know to what extent you have authority to deal with that. I don't know whether or not you even look at the issue of content exclusivity contracts when you are considering the issuance or consolidation of the licensing portion of this agenda. So I will explore that more completely with you. And I can assure you it has everything to do with Georgia football. Thank you. And I yield back my time.

Mr. Boucher. Thank you very much, Mr. Deal. The chairman emeritus of the full Energy and Commerce Committee, the gentleman from Michigan, Mr. Dingell, is recognized for 5 minutes.

Mr. Dingell. Mr. Chairman, I thank you. I commend you for

this hearing and for the fine job you are doing as chairman of the subcommittee.

I want to express a warm welcome to our witnesses today and to you, Chairman Genachowski. It is my hope that, under this new leadership, the Federal Communications Commission will again enjoy a collegial and productive relationship with this committee. Much that falls under the purview of the FCC, including universal service reform, spectrum auctions, broadband development, wireless competition, requires the attention of this committee, and my colleagues and I will welcome the willing cooperation of the FCC in addressing these matters.

I intend to focus my questions today on several questions of great public and personal concern. First, as our witnesses know, I have a keen interest in a thing called forbearance at the FCC. I have introduced legislation, H.R. 400, the Protecting Consumers Through Proper Forbearance Procedures Act, to correct what I perceive as a defect, a serious defect, in section 10 of the Communications Act of 1934. And I will be inviting your comments, gentlemen and ladies, on that portion of your jurisdiction. And I am concerned that unwise actions are being cloaked in inaction down at the Commission.

Second, pertaining to special access, I am interested to hear what progress, if any, FCC has made in collecting adequate data to determine the state of competition for high capacity data services.

Third, I will enjoy a candid discussion with our witnesses, I hope, about the rule pending before the Commission addressing interference between Wireless Communications Services, WCS, and Satellite Digital Audio Radio Services, SDARS. As my time is limited, I may not be able to address all these questions properly, and so with the permission of the chair I will submit questions for the record. I also will be requesting that members of the Commission respond to questions with a yes or no answer in the interest of time.

So members of the Commission, Mr. Chairman, welcome to the committee this morning. I think we will have an interesting and useful discussion today, and I thank you for your presence. Thank you, Mr. Chairman.

Mr. Boucher. Thank you very much, Mr. Dingell.

The gentleman from Michigan, Mr. Rogers, is recognized for 2 minutes.

Mr. Rogers. Thank you, Mr. Chairman. Mr. Chairman and Commissioners, thanks for being here today, and I look forward to getting to know the newer commissioners. Welcome.

Mr. Markey challenged you to dream big. I just hope you are not dreaming big of government intrusion, and I hope that you look at each issue with a notion to encourage investment. And there are issues certainly that we are concerned about, the fairness doctrine, broadband. I mean, there is a way that we can do this to encourage private investment like we have never seen before,

and it is in your hands to do that. And I hope that is the call that you will take, and not get into the temptation for net neutrality. There has been some disturbing comments from -- public comments about the FCC regulating broadcast and print media. I hope that you will resist the urge to go beyond what is a standard decorum of government involvement in the media. That is very, very concerning to me and I know many on this committee, and we will be watching awfully closely to make sure that the FCC provides a level of certainty in things like special access and a broadband plan that allows the private sector to invest. And with that certainty -- and the quicker the better. With that certainty, we will have I think a very competitive broadband plan for the United States as well as a free and open media that we I think all have grown to understand and respect.

And so with that I have a statement, Mr. Chairman, for the record, and I look forward to having the opportunity to sit down individually with each of you all. And Godspeed on what I think is going to be a very exciting time through this Commission. And I yield back.

Mr. Boucher. Thank you very much, Mr. Rogers. The gentlelady from California, Ms. Matsui, is recognized for 2 minutes.

Ms. Matsui. Thank you, Mr. Chairman. Thank you for calling today's hearing. I would also like to thank Chairman Genachowski and the Commissioners for being with us this morning.

This is a new Commission with some new members, the new chairman and Commissioners Clyburn and Baker, and I congratulate you on your recent confirmations and I look forward to working with all of you with the challenges facing us in this day and age.

It has been widely noted that over the last several years the FCC may not have been as focused on the issues that are important to consumers and the marketplace in general. Whatever the opinion, I believe that there is a need for reform, creativity, and thoughtfulness moving forward to ensure fairness and competition in the marketplace.

The FCC has a central role to play in moving our economy forward and creating jobs by expanding broadband access across the country. To help close the digital divide for millions of hard-working families we must also address the affordability of broadband services as more households have greater access to the Internet. That is why I will soon be introduced legislation to expand the universal service funds lifeline assistance program for universal broadband adoption, to help more lower-income Americans living in urban and rural areas in subscribing to affordable broadband services.

I am also particularly interested to hear how the national broadband plan will help, and this includes households, schools, libraries, health facilities, among others, in urban underserved communities achieve greater access to broadband services. I am also interested in hearing how the Commission plans to address

public safety issues so that agencies, local law enforcement, and households better communicate during emergencies.

And on the issue of special access, the Commission should soon update the data needed to evaluate the level of competition in the marketplace. Spectrum availability will be key to increased competition, including public safety and to encourage new and innovative services. I am looking forward to working with my colleagues and the Commission on all of these important issues moving forward. And I thank the chairman for holding this important hearing today, and I yield back the balance of my time.

Mr. Boucher. Thank you very much, Ms. Matsui. The gentleman from Arizona, Mr. Shadegg, is recognized for 2 minutes.

Mr. Shadegg. Thank you, Mr. Chairman. And thank you for holding this hearing. I have always found the hearings you held in the past in the Energy Subcommittee to be informative and I expect nothing less here today. I want to welcome all of our witnesses and express my appreciation for their testimony here, am anxious to hear it; therefore, I will keep my own remarks relatively brief.

The FCC has played and continues to play a vitally important role as our technology and capabilities have advanced. I look forward to learning more about the priorities of the agency and how we can work together. My particular emphasis, however, is on ensuring that the market is as competitive as humanly possible. Quite frankly, I think there is always a danger of overregulation

in these areas, and that consumers benefit by regulation which sets the level of control at an ability to ensure that there is real competition, because I believe real competition benefits the consumers. And that is, after all, who I think I am here with a duty to represent.

I look forward to your discussion of each of the issues, but in particular to the issue of special access and the special access proceeding. It seems to me that that proceeding has drug on too long, that we need to get the information and get the decisions made, and we need to make sure that those decisions are made in a way that we benefit consumers so that they can have the most choice and the most options. I think it is critical that action on that proceeding occur as quickly as possible.

I join my friend, Mr. Shimkus, in noting that my staff didn't talk to me about the fairness doctrine; but since it is being discussed by those who would like to see a new fairness doctrine, I am happy to make it clear that I think that is the prerogative of the Congress, and I would not be happy to see any administrative interference in that area.

I hope this is the first of many hearings between our committee and you all on how we can improve our communication system in the Nation and make it as efficient as humanly possible.

And for my friend, who must have left, Mr. Markey, I would suggest that perhaps for telephone chargers we need a public option so that people can go somewhere and buy from the government

a single charger that will charge all of their telephones.

With that, Mr. Chairman, I yield back the balance of my time and thank you for this hearing.

Mr. Boucher. Thank you very much, Mr. Shadegg. The gentleman from Vermont, Mr. Welch, is recognized for 2 minutes.

Mr. Welch. Thank you very much. You know, I am thinking about what Mr. Stearns said. This committee shares a concern on a bipartisan basis to try to move the economy ahead, and telecommunications and all of the work that the Commission is doing is an oasis of progress, actually. So it is incredibly important for each and every one of us in our districts that we have the best possible telecommunications policy. I welcome the new members who have been recently appointed to the Commission, and I introduced myself as a new member of the committee. And what is tremendous is, I think, we have got terrific people on this committee who share your common goal to work together, because if we are going to build a national economy and strengthen it, we are going to have to have absolutely the best telecommunications policy in the world. So I wish you good luck, and I will enjoy working with you for the betterment of the economy here in the country. Thank you.

Mr. Boucher. Thank you, Mr. Welch. The gentleman from Oregon, Mr. Walden, is recognized for 2 minutes.

Mr. Walden. Thank you, Mr. Chairman. I am going to waive my opening statement in lieu of extra time. I do want to welcome the

commissioners.

Mr. Boucher. Thank you very much, Mr. Walden. The gentleman from Nebraska, Mr. Terry.

Mr. Terry. Welcome. Waive.

Mr. Boucher. Thank you, Mr. Terry. The most concise statement made so far. The gentlelady from Florida, Ms. Castor, is recognized for 2 minutes.

Ms. Castor. Well, thank you very much, Chairman Boucher. And welcome to Chairman Genachowski and all three members of the FCC. I look forward to your testimony today.

The technological innovation of just the past few years has been truly remarkable. And even last year's Presidential campaign made unprecedented use of social networks, distributed phone banking, and an unmatched grasp of limitless possibilities of information technology. And it is my sincere hope and belief that the coming years will truly foster American ingenuity and expand America's leadership in information technology. And over the past couple of months we have had an opportunity already to see how this new Commission is working since your confirmation, Chairman Genachowski. You have already begun aggressively preparing to complete the national broadband plan that Congress has asked for, and I have been encouraged by the speed with which you have acted to engage stakeholders in public hearings. And I understand later today the FCC is holding a public hearing on spectrum. I coauthored the Radio Spectrum Inventory Act that was introduced by

Chairman Boucher and Ranking Member Stearns this summer, so I applaud you for that.

The FCC has a very full plate with issues like the spectrum and the broadband plan, the DBLOCK, and your work on wireless competition and transparency for consumers all require very serious decisions to be made, and I commend the Commission for its work so far. As you settle into your jobs, we are all intently interested in your plans and outlook. So I look forward to your testimony. Thank you very much.

Mr. Boucher. Thank you, Ms. Castor. The gentlelady from California, Ms. Eshoo, is recognized for 2 minutes.

Ms. Eshoo. Thank you, Mr. Chairman. Welcome. The full FCC. This is great. I am very excited.

Chairman Genachowski, welcome. We are very proud that you are going to be leading the Commission.

To the two Commissioners that are the mainstays from the previous Commission, we thank you and salute you.

And certainly to Commissioner Copps, I think that you have just been a force of nature in terms of what you have done and what you went out all over the country to speak to the public interest, and for your magnificent work as the acting director. Thank you to you. We are all grateful to you and very, very proud of you.

Commissioner McDowell, it is always a pleasure and a privilege to work with you.

And to the two new commissioners, two women on the Commission, how proud we are of you. And what you bring to the Commission is nothing short of extraordinary.

I think, putting all of that together, we have the opportunity to have a Commission that really is going to be a 21st century Commission, and we need to seize the opportunities and really shape our collective destiny when it comes to telecommunications, and there are so many opportunities to do that. So we all want to work with you in order to accomplish that.

I think that the FCC needs to be able to anticipate change, understand and identify the changes that are going to define us as a country. We need to complete rulemakings in a timely manner that keep abreast of industry dynamics. I think the FCC needs the structure and the financing to accomplish these goals. And you need to tell us how you think and what you need in order to make this happen.

I think that you are all aware of what my guiding principles are behind my concerns about Commission policies. I want to see a competitive environment that encourages innovation and business development, not a world where big fish eat little fish. I am tired of that, most frankly, and I don't think it has gotten us very far. I want to know how you plan to nurture a healthy competitive environment. I think that you know that Congressman Markey and myself have introduced net neutrality legislation that

will bring about a free and unfettered access to the Internet. A free net might as well not be a net at all if people can't receive broadband. I think it is as simple as that. So I actively support modern broadband standards that will guarantee equal access for this really highly essential resource for everyone in our country. And we need high speeds that rank with worldwide standards. We shouldn't be starting with the slowest and then working our way up. It will be the 22nd century, and there will be a longer list of countries that are ahead of us.

So welcome to the new commissioners. Thank you to the two that have really held down the fort. And to Chairman Genachowski, to each one of you, I genuinely look forward to working with you to accomplish what needs to be accomplished for our country. Thank you.

Mr. Boucher. Thank you very much, Ms. Eshoo. The gentleman from North Carolina, Mr. Butterfield, is recognized for 2 minutes.

Mr. Butterfield. Thank you very much, Mr. Chairman. I too would like to thank all five of the commissioners for coming forward today to have this conversation with us. I look forward to working with each one of you. Today, I am looking forward to hearing about the progress of the national broadband plan that Congress required as part of the Recovery Act. It is my hope that the plan will be sufficient to ensure that areas with little or no access to the crucial service be given priority.

Many of the communities that I represent are without very

basic access to broadband and are decades behind better connected areas of our country. The global economy demands access to broadband, and I stand ready to assist each one of you in expanding broadband access to underserved and unserved areas. We had a great debate in this committee about the definition of those two terms, and so we have delegated it to you and hopefully we will get a commonsense approach to this issue.

I also have a keen interest in the DTV transition. The transition has been largely successful and has freed up valuable bandwidth that will be used by first responders to better communicate with one another. However, many of my constituents in North Carolina have been adversely affected by the transition. They are unable to access very basic television programming using an over-the-air signal. Prior to the transition date, I wrote to the Commission to make them aware of the potential for a complete loss of service to certain households that receive their television signals over the air, but unfortunately nothing was done to mitigate the signal loss. The affected households require new high-powered antenna to receive the digital signal. For many families in my district, a new antenna costing several hundred dollars was not a viable option.

On June 11, I introduced the DTV Transition Assistance Act. The bill would utilize remaining money from the converter box coupon program to establish a television antenna coupon program to be used by those households that lost their signals due to the

transition.

There are many other issues that I hope to discuss with the Commissioners as time goes on, including net neutrality and the other issues that we have heard mentioned today. Again, thank you for coming. I look forward to coming with you. I yield back.

RPTS THOMAS

DCMN ROSEN

[11:05 a.m.]

Mr. Boucher. Thank you.

The gentleman from Illinois, Mr. Rush, is recognized for 2 minutes.

Mr. Rush. Thank you Mr. Chairman. In biblical scripture, there is a phrase that says that weeping we may endure for a night, but joy comes in the morning. And as I look out at the many FCC commissioners, my heart is jumping for joy because we have endured 4 years of the midnight, or 8 years of the midnight, and now you are in a position to enjoy it as a new day and a dawning of the new era at the FCC. And I certainly want to commend you, each and every one of you. I think that you are very capable of leading this charge, and my friend, Commissioner Copps, I know that you feel vindicated in that you have been like a lone soldier there at the FCC fighting for those issues that are a vital concern to the American people.

Broadband is a key factor when one attempts to maintain or improve one's condition of lifestyle today. Broadband, as you know, is fundamental to information gathering and sharing with American people. Its economic importance should be obvious. It literally is the difference maker in the future of many of the families in our Nation. And that is why I consider your broadband

plan, the directors at this Congress has given FCC, I consider that just second only to American's pursuits of a national health plan in terms of the impact on the American people.

I want to also just highlight one particular area that I am vitally concerned with, and that is the diversity of media ownership. Commissioner Copps, you and I have had discussions on that, and I think that is the -- that would be the acid test for definition that we do indeed have a new day when we can address the issue of diversity of ownership among the media.

And at some point in time if we have not in this discussion, I want to address the issue of the Verizon-AT&T debacle, as I would term that, that really squandered an opportunity where there could be the diverse ownership, particularly as it relates to minorities in that particular sales. So that would be the test decision or the test gauge that I would look at in determining how the FCC squandered an opportunity to move this Nation forward and to have a fairness in terms media ownership.

Mr. Boucher. The gentleman from Ohio, Mr. Space, is recognized for 2 minutes.

Mr. Space. I very much appreciate the time of our witnesses, the distinguished chairman, and commissioners of the FCC. Thank you for joining us.

The topics of today's hearing are many, but I wish to focus on the commission's work on the National Broadband Plan.

As we all know, the American Recovery and Reinvestment Act

states that the FCC shall develop plans to make sure all Americans have access to broadband. That is something that I care deeply about as a representative of an area of rural Appalachian Ohio, in which many thousands of my constituents lack access to both broadband and the tremendous benefits that can be derived from it, be they of an economic nature or quality of life nature such as health care and educational opportunities that we are missing out on it now because we don't have anything close to universal access to broadband.

Last Congress, I introduced the Connect the Nation Act to provide grants to public/private partnerships selected by States to work on deploying broadband technology. Early this year, I pushed House leadership to include funds for broadband in the Recovery Act. In the spring, I worked with countless stakeholders in and around my district to develop am ambitious connecting Appalachian plan to provide broadband access to 34 counties in Ohio. Then following a release on GAO report on actions undertaken by the Federal Government to encourage broadband employment, I joined Chairman Waxman and Chairman Boucher and then-acting Chairman Copps to highlight the areas of interest, including the findings regarding the remaining gaps in broadband coverage in rural areas.

I say all of this not to highlight my own personal accomplishments, but to point out that Ohio 18 is the face of the remaining need in this country, and we are also an example of a

way forward. The decent hardworking men and women of rural Ohio cannot wait any longer for resolution of what Chairman Genachowski calls our generation's major infrastructure challenge and access to what Commissioner Copps describes as our country's greatest enabler.

Commissioners, I challenge you to implement a national broadband plan that serves those with the greatest needs, and I stand ready to work with you to accomplish this. In Ohio, we are ready to work to get this done.

Mr. Boucher. The gentleman from Washington State, Mr. Inslee is recognized for 2 minutes.

Mr. Inslee. Thank you. I just look forward to this discussion. I am really impressed with some of the things the Commission is doing and look forward to discussion about our interrelated issues of wide spaces and unlicensed spectrum and how we moved the action process forward. I think we have more to do. We've got some progress but we have been waiting 5 years to complete our wide spaces issue, and I look forward to your comments on how we can move forward on these issues.

Mr. Boucher. The gentleman from New York, Mr. Weiner is recognized

Mr. Weiner. I, too, want to welcome the commissioners. I think we are all pulling for you. I know that we've gone through a period on the commission that was perhaps more contentious than it needed to be, and I think that having spoken to just about all

of you I see that we all want to get past those things.

I want to particularly welcome the new chairman who I think comes to the job with perhaps a collection of experiences and a background that makes him more equipped than perhaps any other chairs, someone who is innovative in the private sector, someone who has worked here on Capitol Hill with a close relationship with the President and someone who had his name mispronounced seven times in the Senate confirmation hearings. I want to thank the chairman for his service, and I look forward to tackling some of the issues that this subcommittee faces, but welcome to you all.

Mr. Boucher. The gentleman from Pennsylvania, Mr. Doyle, is recognized for 2 minutes.

Mr. DOYLE. Thank you, Mr. Chairman. Good morning and welcome to the Commission. First, let me also thank Commissioner Copps for his outstanding service as interim chairman of the Commission and someone that I've certainly been pleased with to work with over the years.

And I also want to commend Commissioner Baker for her work at NCIA and to our new commissioner, welcome. We are happy to see you on board.

I want to associate myself with comments from Chairman Waxman and Boucher and former Chairman Markey on the critical importance on broadband and their use on wireless competition.

I heard Mr. Markey's story about cell phone chargers and you know the EU brought together all of the device makers and

regulators and worked with the industry to solve this consumer complaint. They settled on a micro USB standard. I would hope that American carriers and device makers would follow that policy, and we don't need to wait for the FCC to force some action to address this consumer complaint.

I want to tell you I was delighted when the FCC came to Pittsburgh in 2007 to discuss and learn more about the future of broadband. I think we all learn more when we leave Washington, D.C. and get out in the field and talk to real people. And Chairman Genachowski, I would like to encourage your staff and those working on the broadband plan to review the record of the Pittsburgh field hearing. Several witnesses who gave real-world experience at broadband adoption in low-income urban communities and how innovators are limited from using SMX text messaging to reach young people, and how people get left further behind when they are not connected to a critical network like the Internet.

I've also noted that the FCC has hired a lot of people from inside and outside the Beltway. They've picked a lot of folks with practical real-word experience, they've been able to attract many people with important background in the private and public sector. I think that is a good thing. A number of them have testified before our subcommittee on communications and technology issues. I don't always agree with everything that they've testified to us, but I respect their intelligence, I admire their commitment in seeking facts and data that support their views, and

I recognize that they are serving in advisory positions.

When it comes down to it, when decisions are made, the people who matter are the people who are sitting in front of us today, the chairman and the commissioners. That is who we should be talking to.

And I look forward, Mr. Chairman, during the question-and-answer period, to have some questions for our new commissioner.

Mr. Boucher. You have now heard from us, and we look forward to hearing from you.

And we are very fortunate to have before us this morning -- and thank you for your attendance -- the five members of the Federal Communications Commission.

Without objections, your prepared written statements will be made a part of our record. We would welcome your oral summaries and would ask that you keep those within a reasonable time frame so that we have time remaining to pose questions to you.

STATEMENTS OF JULIUS GENACHOWSKI, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION; MICHAEL COPPS, COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION; ROBERT McDOWELL, COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION; MIGNON CLYBURN, COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION; AND MEREDITH ATTWELL BAKER, COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION

Mr. Boucher. And we will be pleased to begin this morning welcoming the new chairman of the Federal Communications Commission, Mr. Julius Genachowski, and we would be very pleased to have your statement at this time.

STATEMENT OF JULIUS GENACHOWSKI

Mr. Genachowski. Thank you, Mr. Chairman, Ranking Member Stearns, members of the subcommittee. It's a particular pleasure for me to be here in the House of Representatives where 25 years ago, I started my career when a young congressman took a chance on someone fresh out of college. It is a privilege now to be chairing the Commission and to work with such an exceptional team of commissioners. I have the highest regard for each of my colleagues, Commissioner Copps, Commissioner McDowell, Commissioner Clyburn and Commissioner Baker.

I believe that some of the members have recognized the public owes a debt of gratitude to Commissioner Copps, then-acting chairman and Commissioner McDowell for their excellent work for the DTV transition.

While as we've heard issues remain, more work needs to be done. There is no question that the FCC's role to date has been a success. Both Commissioner Clyburn and Commissioner Baker bring first-rate experience to the FCC and track records of real accomplishment. It is wonderful to have a full team up and

running at the FCC. I am confident that together we can make the FCC an agency that works for all Americans.

While I arrived at the FCC only a couple of months ago, I tried to hit the ground running seeking to revitalize and retool the agency. I've begun by articulating strategic principles that include fostering investment and innovation, promoting competition, protecting and empowering consumers children and families. These principles require work in a number of important areas: Developing a national broadband strategy; unleashing spectrums so the U.S. can lead the world in mobile; helping deliver state of the art public safety communications networks for our country; promoting a vibrant media landscape in the 21st century that serves the public; and reforming the FCC itself so that it can become a model for excellence in government

I have detailed in my written remarks on these topics. Let me summarize them here. First, the national broadband plan. We have been working hard on broadband, which I believe is our generation's major infrastructure challenge. Robust, open, affordable broadband can be our platform for sustainable economic growth and opportunity for all Americans. In April, under then-acting Chairman Copps leadership, the Commission began the efforts to develop the national broadband plan mandated by Congress.

In July as part of my first Commission meeting, we heard a work plan for meeting our February deadline, which is coming up

very quickly. In developing the national broadband plan, the FCC is conducting a data driven process with unparalleled opportunity for public participation through public workshops, requests for comments on concrete questions, the use of new media and technology, including a Web site, broadband.gov, a new blog, Blogband, Idea Scale and other platforms for public participation.

We are at the very early stages of this work but thousands of Americans have already connected to the FCC, learning about the Commission's work and offering real and substantive comments which we are incorporating into the record. We are using these and other tools to reach out beyond the Beltway to all Americans, individuals and businesses, because all Americans are stakeholders in the broadband plan.

Second, the Commission, in August approved issues of notices of inquiry that addressed the key topics of innovation, investment, competition and consumers.

Our wireless innovation and investment notice of inquiry focuses on the Commission's particular responsibility for managing spectrum, a unique and scarce national resource. It recognizes the vital importance of innovators and entrepreneurs to the work of the FCC and seeks input and ideas for how the FCC can best maximize investment and innovation in the mobile industry. It asks is there anything the Commission should do that it is not doing to promote investment and innovation? Is there anything that the Commission is doing that it shouldn't do where that would

better promote innovation and investment?

The goal of the wireless competition of inquiry, which we also approved, is to build a solid analytic foundation for predictable fact-based competition policy in the wireless sector. And the goal of the consumer information and disclosure NOI that we approved last month is to allow the Commission to assess whether consumers have adequate information to make informed buying decisions.

These notices reflect the importance of mobile. There's been strong innovation in the wireless sector. That is the good news. I believe the U.S. has the opportunity to lead the world in mobile. I believe we also have some real challenges in this space including those mentioned by some members of the committee were facing a real demand crunch when it comes to spectrum.

I would like to next take this opportunity to reconfirm my strong commitment to public safety. Public safety interoperability is a vitally important issue for the Commission and the Commission staff is actively evaluating proposals addressing mission critical voice communications and broadband capability for our Nation's first responders.

My first day on the job, I requested a top-to-bottom review on the Agency's state of readiness for major public emergencies. Admiral Jamie Barnett, our new leader of our Public Safety and Homeland Security bureau, led that review. We released the results of the review on September 8th and they are summarized in

my written statement. The bottom line, the review confirms that the FCC stands ready to respond to communication emergencies, but the report also reminds us that the agency must continuously strive to maximize its readiness to ensure that it is prepared to meet its vital mission in the digital age and to work toward helping our country's first responders deploy 21st century technologies in support of their operational requirements.

Along with starting work in our strategic priorities, we are also working toward the FCC becoming a model for excellence in government. One of my first acts was to appoint a universally respected senior staffer, a special counsel for FCC reform. She is working alongside our new managing director, who has 15 years of very relevant experience in the private sector, our new general counsel, and our director of strategic planning on FCC reform. They are looking at all ideas to improve the operations and processes of the FCC to achieve the goal that I have laid out: having the FCC become a model for excellence in government, a model information agency for the communications age.

Our form agenda is extensive. Highlights include a careful review of FCC properties and examination of the Commission's data collections, analysis, and dissemination, licensing comment and complaint filing systems. Modernizing our information infrastructure, and our financial operations.

Now, I will say that I have learned a few things during my brief tenure so far as chairman. For one, repeating relentlessly

is sometimes necessary. Many have asked, and I state again, I do not support reinstatement of the fairness doctrine either through the front door or the back door. I believe deeply in the first amendment, and oppose any effort to censor speech based on the political viewpoint or opinion.

Now finally, while I have not had the opportunity to meet individually with all of the members of the committee yet, I hope to do so. I have had the privilege to meet with many of you. Those conversations and those meetings have been constructive. I was happy to hear Mr. Shimkus mention our action on kids.gov; from Congressman Terry, we learned about Blue Valley Meats, a terrific business in Nebraska that developed a -- that used broadband to better distribute to grow its business. It is a great example of small business using broadband to grow, create jobs all over the country. And we reached out to Blue Valley Meats in connection with our broadband process.

Congressman Walden, when I met with him suggested that we do something that I thought was a great idea, that we get our media bureau staff and sit down with broadcast engineers and see what kind of ideas we can generate to better improve the processes of the FCC. That has happened, and it is resulting in some concrete actions.

I spent time with Congresswoman Eshoo at a hospital in Palo Alto where we saw some of what broadband can offer, an incredible use of technology, imaging technology, broadband around remote

diagnostics that allow for diagnosing of newborns with a disease that causes blindness in a way that when you see, you think this needs to be available to all Americans. It is available in Palo Alto; it should be available everywhere. Those are the kinds of things we are thinking about in connection with our broadband plan.

Let me stop there. These are but a few of the examples. I look forward to having more conversations with each of you in the months ahead and concrete actionable ideas that we can implement in the FCC.

You can be assured that my goal for the FCC is to be a resource to this committee, to be open, fair, responsive; and as I said, to have the FCC be a model for excellence in government.

Thank you for the opportunity to appear before you today. I look forward to answering your questions.

Mr. Boucher. Thank you very much.

[The prepared statement of Mr. Genachowski follows:]

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Mr. Boucher. Commissioner Copps.

STATEMENT OF MICHAEL COPPS

Mr. Copps. Chairman Boucher, Ranking Member Stearns, members of the subcommittee.

Let me first express my very real gratitude for your incredibly generous statements today and more specifically, for your support and guidance, particularly during those 5 months-plus that I was privileged to serve as the Commission's acting chairman earlier this year. Those were just incredibly busy and eventful months dealing with the first and foremost with the DTV transition, and also launching a truly historic proceeding growing out of the mandate from Congress for the Commission to develop a national broadband plan.

I am pleased that we were able to navigate through this period, and I am incredibly optimistic about the future of our new Commission. Chairman Genachowski brings tremendous intellect, experience and commitment to his job, and he is off to a fine start. In addition, I tremendously value my relationship with my good friend and colleague, Commissioner Rob McDowell, who made a world of difference in the success of our DTV program during those months while I was acting chair -- fellow commissioners Mignon Clyburn and Meredith Baker and how on board each are with very

valuable and relevant experiences and talents. So I believe we are positioned for major progress.

I also want to thank my friend and former colleague, Jonathan Adelstein, for his tremendous service as commissioner for nearly 7 years. It seems strange not having him sitting here right beside me this morning. I think Commissioner McDowell has termed us the Three Amigos. Hopefully we are already on the way to becoming the five amigos of the Commission. I know Jonathan will serve the public interests superbly of the new administrator of World Utility Service.

My biggest thanks of all go to the FCC team. I have for 8 years admired their skill, their professionalism, and dedication; but seeing it up close as acting chairman, seeing, for example, volunteers leaving their families to go across the country to help other families get ready for the DTV transition or working nights and weekends to get other items ready for consideration gave me a new appreciation for what public service means and what public service is. And giving them the room they need to accomplish their tasks is one of the things that I tried really hard to do as acting chair.

For me, our current involvement in broadband is a dream come true. For 8 years, I advocated everywhere I could for a national broadband strategy to get this essential infrastructure out to all our citizens. I see broadband as our country's great enabler. It is part of the answer to just about every challenge we confront as

a Nation: lost jobs, shortfalls in education, energy dependence, environmental degradation, inadequate health care delivery, and the list goes on. This is the 21st century's great infrastructure challenge, comparable to the challenges earlier generations confronted to build enabling infrastructure like turnpikes and roads and bridges, canals, highways, rural electricity, and then even telephone service.

Now it is broadband's turn to help build renewed prosperity by opening the doors of opportunity for all Americans, no matter who they are, no matter where they live, no matter what the particular circumstances are of their individual lives. Enable broadband, and we enable the citizens of this great country.

Just as sweet music to my years was the designation of the FCC to be the epicenter for the development of this plan. I am pleased that the Commission was able to launch a comprehensive broadband notice of inquiry this past April, and I am greatly encouraged by Chairman Genachowski's commitment to an open and transparent and data-driven broadband process, really unprecedented in the history of the Commission. And that is exactly this kind of outreach and openness that we need in everything we do.

So I hope and I believe that that broadband proceeding will serve as a model for future proceedings in the way we achieve maximum civic engagement with traditional and nontraditional stakeholders alike. That is the way we should do business all the

time.

There is much more to be done on top of broadband. While the bulk of the DTV transition is behind us, there is still work to be done. With consumers and stations alike, we are doing that work. The additional time and resources provided by Congress made a world of difference in reducing the number of problems we would otherwise have encountered, and the private sector/public sector cooperation that we were able to develop here showed how productively the sectors can work together, and it is absolutely essential as we look now to develop a broadband plan to build a partnership. That is how we grew this country of ours and built it.

Lastly, I come back to, as I always do, to the country's media environment. Now is the time to pay it serious attention. We have relied, for example, so heavily on our broadcast media for so much of the news we must have for emergency and public safety information, for public affairs programming essential to our civic dialogue, and for programming that supports the health and welfare of our children that reflects the social and cultural diversity that comprises the great tapestry that is the United States of America. We have not been, in my mind, sufficiently attentive to this.

Now, with all of the new digital TV capacity at our disposal, broadcasting's capacity to develop such processing is orders of magnitude larger than it used to be. Stations can now broadcast

four or five or even more program streams using the same amount of spectrum they used to transmit just one stream in analogue. What an opportunity for broadcasters whose strength is local to develop programs reflecting local issues, cultures, sports, and all of the rest. Too few of them are taking advantage of the capacity. Times are tough. We all know that. But recovery will come. Broadcasting does need to play to its strengths and its future can be truly bright, and I am convinced that its future is bright.

Our country is also awakening to the realization that there is a crisis in journalism regardless of the means of distribution: broadcast, newspaper, cable, the Internet. News gathering and news dissemination expenses are being cut to the bone. Investigative journalism is too often falling by the wayside, and these constraints are endangering, I believe, the vibrancy of the civic dialogue on which our democracy depends.

New media is developing, more will come, but traditional media persists. We can't focus on one and neglect the other because we need solutions in both areas now.

Recently the legendary Walter Cronkite died. One of my good fortunes after I came to the Commission was to get to know this good and wise man, and we had numerous discussions about the deepening crisis in journalism and the urgent need to tackle this program. As he once said, America is the most prosperous and powerful nation in perhaps the history of the world. We can certainly afford to sustain a media system of which we can be

proud. I look forward to working with the subcommittee on this issue as well.

Thank you again for inviting us here. This is, I think, perhaps the most exciting time of history to be a member of this Commission. I am enthused. And I look forward to your comments and your counsel and your questions. Thank you very much.

Mr. Boucher. Thank you very much, Mr. Copps.

[The prepared statement of Mr. Copps follows:]

******** INSERT 2-2 ********

Mr. Boucher. Mr. McDowell.

STATEMENT OF ROBERT McDOWELL

Mr. McDowell. Thank you, Mr. Chairman and Ranking Member Stearns and members of the committee. It is a privilege to be here before you today.

The FCC is an agency with new energy and new blood, and I am honored to be serving there for another term. I look forward to working with my new colleagues, Julius Genachowski, Mignon Clyburn and Meredith Baker, as well as my veteran amigo, Mike Copps. With these new commissioners and new leadership, we have a perfect opportunity to rebuild the FCC as we address the myriad communications and economic policy challenges facing America.

For some time now I have been calling for reform of the Commission's structures and processes to help spark discussions and progress. I wrote open letters outlining reform ideas to both acting Chairman Copps in January and Chairman Genachowski in July. And one of my letters is part of my written statement in the record.

First and foremost, the FCC should be a more open and collaborative place where all commissioners are included in the idea formulation process early on and not just 21 days before a voting deadline.

Both acting Chairman Copps and Chairman Genachowski have taken significant steps to enhance information flow and improve employee morale, and they should be commended for their efforts. A tremendous amount of FCC work remains to be done, however. I look forward to working with all of the stakeholders on this important endeavor, especially members of this subcommittee and the full committee.

As we move forward, I cannot think of a more important time to be at the FCC. Even though the American economy has been shrinking overall, our communications marketplace is vibrant, evolving, and growing. Consumers have more choices among more communications technologies, services, and providers than ever before. For instance, 157 million Americans watched more than 21 billion online videos during the month of July alone -- a figure that is growing at a double-digit rate each month. Consumers are watching those videos on an increasing number of platforms as well, most notably wireless platforms.

Three years ago, the discussion of a wireless-only marketplace was just beginning. Today, nearly one in five American households is wireless only. In fact, I like to point out that my wire line legal adviser, Nick Alexander, his household is wireless only. I think that speaks volumes. And the majority of American consumers also have the choice of five wireless carriers.

At the same time, 23 percent of all businesses are expected

to be wireless only by the year 2012. America's wireless broadband market is leading the world by growing more than 400 percent over the past 3 years. Additionally, America has the fastest growing fiber to the home market in the world with an annual growth rate of over 120 percent. Five years ago, less than one percent of American homes had access to fiber; today that figure stands at 13 percent.

Since the year 2000, the number of high-speed lines in America has increased more than 1,900 percent for approximately 6.8 million connections at the end of the year 2000 to almost 133 million lines nearly 9 years later.

To grow that number further, America's businesses will spend up to $80 billion on new broadband infrastructure this year alone. And I know that this is a terrible year to be investing in capital expenditures.

Certainly our communications marketplace is far from perfect and more must be done. As we prepare our congressionally mandated national broadband plan however, we should not just examine our shortcomings, but we should learn from what we have done right as well.

The information and communications technology sector is poised to lead our country out of the recession and into an era of sustained economic prosperity. Higher paying jobs and untold consumer benefits if the government does not adopt policies that inhibit economic freedom and investment.

America's year-over-year private sector investments in broadband dwarf any government broadband efforts throughout the globe. In recent years, the Commission has promised that new broadband technologies would come to fruition as a result of our actions to put into the hands of consumers the power of previously unavailable spectrums, such as the 700 megahertz band. Market players, both large and small, will need even more capital to build out the infrastructure needed to make that promise a reality.

With this fact in mind, whatever policies we adopt should help attract more private sector capital and not deter it. As the broadband plan takes shape, it is my hope that the plan will not take a heavy-handed, top-down command and control industrial approach. Instead, I hope it will be imaginative, pragmatic, flexible and the next step in an open process that will make helping unserved America its top priority.

Our policies should encourage abundance and competition to give consumers more choices, life-changing innovations, and lower prices all while obviating the need for innovation and rationing. If we are truly committed to being data driven and avoid cherry-picking data to justify a predetermined outcome, we can produce a useful template to produce a constructive public policy.

In addition to reform and the broadband plan, the Commission faces a number of other challenges. We are confronted with a skyrocketing universal service cost structure that is

unsustainable. More than 1.3 million broadcast indecency complaints, some of which literally are older than my children, lie ossifying at our agency.

The Communications Act requires us to review our rules governing media ownership next year, and during that review, we must be faithful to the first amendment and defend the freedom of speech.

We still have work to do to ensure technologies that operate any unused television white spaces can come to market and into the hands of consumers as quickly as possible. Likewise, we must work with Congress to devise a solution for resolving the communication challenges faced by our Nation's emergency response providers and the list goes on.

But in conclusion, America's ICT sector is at a critical juncture. Our technological and economic future could be brilliant if we, as policymakers, have the courage to make the right choices.

I look forward to working with Chairman Genachowski and my colleagues on important policies that will encourage job-creating investment, empower consumers, and make America stronger and more competitive.

Thank you, Mr. Chairman.

Mr. Boucher. Thank you, Mr. McDowell.

[The prepared statement of Mr. McDowell follows]

******** INSERT 2-3 ********

Mr. Boucher. Ms. Clyburn.

STATEMENT OF MIGNON CLYBURN

Ms. Clyburn. Mr. Chairman, members of the subcommittee. Good morning. It is an honor and a privilege to appear before you today alongside my esteemed colleagues to discuss our work at the Commission.

As an agency responsible for regulating the telecommunications industry, the FCC has an important role to play in our Nation's economic recovery and sustained health. From what I have witnessed in my short time at the Commission, I can assure you that we are an agency fully committed to the task at hand.

My colleagues have already touched on a number of matters facing the Commission. I would like to highlight a few issues that will be priorities for me.

First, I strongly believe that we must refocus this agency on consumers. We must be vigilant in asking ourselves how our decisions impact the marketplace. Where the market is working effectively and consumers are reaping benefits, we can take a step back and watch it flourish. Where the market is failing, however our responsibility is to craft reasonable and appropriate measures to get it back on track.

Our new inquiry concerning the information disclosed to

consumers when they purchased telecom equipment and services reflects the FCC focus on consumers. There is no more essential component and purchasing processing than clear, accurate, and useful information. Without it, consumers enter into contracts they never anticipated, pay for services they never sought, and spend for more than they should for services they received. When this happens, the market has failed and a closer look is warranted.

As part of redoubling our consumers' efforts, I believe we must also increase our accessibility in transparency to the public. By fostering greater participation and awareness, we undoubtedly will yield superior results. This means making the Commission far more accessible to the general public through our Web site and other new media tools as well as finding innovative ways to open our doors beyond the Beltway.

I want to also touch on the national broadband plan. While much of to focus over the next several months inevitably will be on the core elements of broadband deployment and adoption, the plan must also account for national priorities beyond the traditional communications round.

Two such areas about which the members of this committee are intimately familiar are energy and health care.

When it comes to thinking about the intersection between broadband and energy policy, the conversation begins with a smart grid. If we take seriously the notions of energy independence and

reduce greenhouse gas emissions, we must develop a grid capable of accommodating renewable power as a significant portion of our energy generation mix. Our broadband plan must account for the continued development and growth of this technology.

Broadband policy also has the potential to transform the way health care is delivered in this country. In order to develop a useful plan that incorporates innovative mechanisms for providing quality health care, we must first understand the industry's infrastructure requirements, the current reasons for inadequate access and adoption, and ways in which we can facilitate effective and secure online access to medical records.

In bringing these and other sectors of the economy into the fold, coordination among a variety of Federal agencies and State entities is paramount. I will do everything in my power to make sure that we continue to work effectively with all stakeholders

The final issue I would like to address this morning is the state of minority ownership. I am pleased that our chairman has already indicated that this is an issue he would like to address early on. But before we even begin to find solutions for the lack of diversity in media ownership, we need to have an accurate diagnosis. And to do that, we need credible, reliable, and complete data. We don't have that now, and in my view, we need to get the ball rolling as soon as possible to come to terms with exactly why our broadcast industry is in the state we find it in today.

I look forward to working with my follow commissioner, Chairman Genachowski, and the subcommittee as we develop the most effective telecommunications policies possible. The American people are relying on all of us to work cooperatively to ensure that they are being provided the widest array of services at the highest quality and the best prices.

Thank you for the opportunity to appear before you today, and I look forward to answering your questions.

Mr. Boucher. Thank you, Ms. Clyburn.

[The prepared statement of Ms. Clyburn follows]

******** INSERT 2-4 ********

Mr. Boucher. Commissioner Baker.

STATEMENT OF MEREDITH BAKER

Ms. Baker. Good morning Chairman Boucher, Ranking Member Stearns, and all of the very distinguished Members of this committee.

It is really exciting to be here today, and I am very grateful for your kind words about my tenure at NGIA. I really hope to bring that experience to enhance all of our experience at the FCC.

So during my first 6 weeks at the Commission, I have had the opportunity to meet the various bureaus and the offices, and I have been greatly impressed by the agency and the depth and the talent and dedication of the staff as we really face unprecedented challenges of the significant issues before us.

Chairman Genachowski gave an inspirational speech to the FCC staff on his first day, and he stated that the promise of technology has never been brighter, and consequently, the obligations of the Commission have never been greater, and I share that view.

The FCC holds the keys to unleashing the power of broadband, the new media landscape and true public safety operability. This responsibility is challenging, but the rewards will truly make a

difference in the life and future of every American.

According to one metric, the communications industry constitutes one-sixth of our economy and is the foundation upon which the rest of it runs. A 21st century communications infrastructure is essential for restoring sustained economic growth opportunity and prosperity.

Congress has instructed the FCC to develop and implement a national broadband plan. This directive holds great promise for our Nation, and as you have heard, we are hard at work on it.

Broadband has become critical infrastructure. The enabling technology from everything from the future of our children's education to the next generation of health care, smart energy grid development and, again, true public safety interoperability.

The FCC will play a very important role in making sure that the right regulatory environment exists to create incentives for companies to build out this infrastructure faster to reward innovation and investment and to encourage competition so that American consumers have access to and can afford the world's most advanced telecommunications services. We are gathering the data to ensure that our recommendations are well informed.

I believe that we can reap great benefits from a more efficient, transparent and flexible spectrum policy. The spectrum inventory bill introduced and cosponsored by so many of the members of this subcommittee shows important leadership and is the first step to increasing wireless broadband use in innovative ways

such as secondary markets, leasing, and test beds.

As many of you know me from my previous position at NTIA I think it is critical to pursue policies that foster the efficient use of spectrum to promote the continued innovation and investment in the wireless marketplace.

We plan to take a hard look at the means and tools to maximize spectral efficiency and to optimizes the use of the country's bandwidth.

I am pleased that the first vote I cast at the Commission was to see what else we can do to promote innovation in the wireless sector. Further, this afternoon we will have a broadband workshop on spectrum. And on Monday, I will host our first field hearing for the national broadband plan, a spectrum hearing in Austin, Texas. It is imperative that we lay the foundation for wireless, the fastest growing sector of America's broadband economy who's continued to flourish.

During the past weeks I have had the pleasure of meeting with many of the members of this committee and it is a very talented and dedicated group. I want to thank you for taking the time out of your busy schedules to visit with me and share your thoughts on the communications policy and the future of the FCC. I have learned a great deal about your respective views and the range of issues that you face in your districts. I look forward to continuing our dialogue and to working together for the benefit of American consumers.

The FCC has a profound impact on what the American people see, hear, and read. Healthy competition can benefit consumers, and, in many cases, can reduce the need for affirmative Commission action. However, the regulatory mandate of the FCC will remain an important one as our society continues to experience technological advancement in the communications sector. I take this responsibility very seriously while working to promote the principles of investment, innovation, and competition for the benefit of all Americans.

In conclusion, it is a true honor to be serving at this time with my four colleagues sitting with me at the table and with the wealth of their experience and expertise. I, too, would like to add my voice to thanking acting Chairman Copps for reintroducing a collegial tone at the Commission which Chairman Genachowski has continued to build upon.

I look forward to working with them and Commissioner McDowell and Clyburn and taking actions that will have extraordinary impact on the everyday lives of the American people.

Thank you again for the opportunity to appear before you, and I look forward to answering your questions.

[The prepared statement of Ms. Baker follows]

******** INSERT 2-5 ********

Mr. Boucher. Thank you very much.

The subcommittee's thanks to each of our Commission members for your very thoughtfully prepared comments here this morning and for the time that you have taken to have this conversation with us.

I want to begin by complimenting each of you on what I perceive to be an outstanding bipartisan dialogue among you and a determination to work effectively together in order to advance telecommunications policy. And my personal view is that is the way the best policy is made. And it is a practice that we continually intend to pursue here on this subcommittee as well.

Chairman Genachowski, as you begin to draft your broadband plan, I want to draw your attention to two areas with regard to which I hope you will provide a particular focus.

And the first of these is the need for extraordinarily high bandwidth extending to libraries and communities across the United States. Presumably, we would have fiber optic connections to every library in this country once your plan has been fully implemented. Libraries are an intellectual hub, they are a social hub in many communities across our country. They typically offer computers with broadband and free Internet access. And hundreds of people in a typical community will receive their free Internet access by virtue of that offering at the local public library.

They also offer their own content through their Web sites,

and many of those areas of content involve full-motion video which, of course, requires large bandwidth in order to deliver. And when you have a broadband line extending into a library, a very high capacity line, that line can be a jumping-off point for last mile applications for residents and businesses located between the library and the central switching office where that fiber connection terminates.

So there are really a range of community benefits when they are advanced when we have truly high capacity broadband access extending into the public library. I hope you will have due regard for that as your plan is developed.

I am going to ask for your comments on that one other issue related to broadband, and I will ask for your comments on both of these at one.

As our colleague, Mr. Butterfield, indicated, you are going to be devising definitions for many unserved areas and underserved areas across the country. And I hope you will be extraordinarily careful, particularly in the definition of what is unserved. We have some experience with the existing Community Connect Program that is administered by the Rural Utility Service at the U.S. Department of Agriculture, and it is a very small program. It is effective where it is deployed, but it is very small and perhaps because of its small size, there is some necessity to be quite conservative in the definitions of the areas that will qualify.

But one of their definitions is so conservative as to

disqualify areas that, in my personal opinion, are really worthy of service. They define "unserved" as an area that has absolutely no broadband access to anyone in the community. So if a single resident of the community has broadbands extending into that extending into that home, the entire community is deemed to be served even though no one else in the community has access to broadband.

That is an unusually, and I think, far too severe restriction. And I would hope that you would keep that example in mind as you are defining what "unserved" means.

If there are parts of the community that lack broadband, those parts should be deemed to be unserved in whatever definition you craft.

I want to comment on the notion of underserved also. In my view, if there is a single provider in a community and the benefit of competition is not provided in that community, that community should be deemed to be underserved. If the data rates are unusually slow in that community, if it is perhaps less than a megabit per second for a download speed, that, in my view, would be another indicia of that community being underserved.

If you have competition and high data rates but prices are very high for whatever reason above the national average perhaps, that might be another indicia of a community that is underserved.

And so I would offer those suggestions to you as you undertake these critical definitions in structuring your plan.

And Chairman Genachowski, if you would like to take a few minutes to respond, I would be happy to hear your answer.

Mr. Genachowski. The first thing I would tell you is that all of those thoughts will be taken into account as we develop the broadband strategy.

The structure of our work, the way we have organized the staff, the workshops, the issues that we are jumping into follow from what is in the statute. We were asked in connection with the national broadband strategy to look at one, deployment; two, adoption and affordability; three, national purposes in the way that broadband can help address so many of our national problems, health care, education, energy, etc.

As I have been in this job for a little while and as we have done the work on broadband, we realize that these issues are incredibly complex. When I met with Congressman Doyle -- I don't know if he's here now -- there are real issues in Pittsburgh that you wouldn't expect that, as I talked to Congressman Doyle, sound a lot like issues that I hear about I talk to rural members.

The overriding goal of the national broadband strategy, as I understand it, is the goal of broadband access for all Americans. There are many challenges to address, many problems to solve, and the kinds of issues that you have raised up -- some of which have come up in the context of the near term broadband grants -- are issues that we must get our arms around with connection of the longer-term national broadband strategy.

With respect to libraries, a couple of thoughts.

One of Congress' great successes and one of the Commission's successes over time has been the ERAY program which reflects a strategy adopted on a bipartisan basis to look at different institutions from the one you mentioned in schools, although libraries are also in the program, and to say we see enormous benefits from connecting schools before we get to broadband.

And I think this is reflected in the statute that we have been asked to look at in connection with the broadband strategy. Libraries have all of the benefits that you spoke about; schools, health care facilities, these all have both direct benefits because if these local institutions can be connected to broadband, there are obvious benefits to each library, schools, hospitals; and they also have these extra benefits that you mentioned that driving high-speed Internet to these institutions help solve the last mile problem and other problems in the community through both wire and wireless options.

We have heard the phrase in our workshop so far as strategic institutions, encouraging us as we develop a national broadband strategy to think in part about what we can do to help ensure that strategic institutions in the U.S. have access to a robust pipe for exactly these reasons. And I think you will see that discussion network continue.

Mr. Boucher. Thank you very much, Mr. Chairman.

The gentleman from Florida, Mr. Stearns, is recognized for

5 minutes.

Mr. Stearns. Thank you, Mr. Chairman.

And I appreciate your comments about the FCC. It is very refreshing to hear how they are working in a bipartisan fashion, and of course I attribute your leadership, too, because you are working in the same capacity here in this subcommittee.

I think we heard from our ranking member on this side, Mr. Barton, he and I drafted a bill, 2183. Mr. Chairman, this bill probably can be enacted by you without passing this bill, and I am not sure, since we are in the minority, we will have any chance.

But I think the question for you is over the years, I think both sides, both Republican and Democrat, think there has been a lack of transparency on the basis of the FCC's commission. Perhaps, as Mr. Barton said, it has become opaque. So we would like to see published a specific text of proposed rules in a timely fashion, allow the public at least 30 days to file comments, 30 days to file replies, establish deadlines, and public decisions within 30 days after adoption. I would like your assurance that you will perhaps implement these and make the FCC more transparent.

And I will ask Commissioner Copps and McDowell right down the line to get your opinion.

Mr. Genachowski. I think these FCC processing issues are very important. They do relate to better decision making. At the

FCC, as I mentioned one of the first things I did was appoint a very-well respected special counsel for reform who was leading this process. And I have asked her and the team that is working on it to take all of these ideas into account, and we will.

Transparency is incredibly important. We have taken some steps, as I have mentioned already. Probably the most important is the way we have run our broadband process. Through open workshops, publishing a schedule of workshops encouraging broad participation, each of the workshops are in public. You see staff rolling up their sleeves with a mixed group of people.

Mr. Stearns. This place is packed by a lot of people, and these people are probably saying tell us what the procedures are so we can follow and we can have them in place so we have the transparency so we can compete. Commissioner Copps, I guess the question is do you agree, perhaps, in that there needs to be more transparency?

Mr. Copps. I do agree with that. I tried to foster that kind of transparency when I was chairman. I am sure under Chairman Genachowski that we are going to have that.

I would like to ask you for some help to make our Commission run better, and I have talked about this before, and I know some member of the committee -- I remember a dialogue with the Mr. Barton last time and he was supportive of this.

We are talking about the sense of camaraderie we have here with the openness in the discussion, yet more than two of us can

never get together to talk. We have this incredible array of talents and experiences.

Just putting myself in your place, if you could only talk to one other of your colleagues and nobody else, you would be in one hell of a fix. And I think we are in a fix that way, too. I think we need to do something.

Mr. Stearns. Thank you.

Mr. McDowell?

Mr. McDowell. I support the spirit of your bill. I agree with Commissioner Copps' Sunshine Act reform among some other statutory reforms would be helpful. I have been speaking out about FCC reform for a couple of years but most vocally this year. I have attached that letter as part of my written testimony to Chairman Genachowski in July. There is a lot more work to be done.

I think we do have the building blocks to do a lot of the FCC reform already. So we do have the building blocks to make it a good, effective, transparent agency.

Mr. Stearns. Commissioner Clyburn, I think with your experience you would think transparency is key. In fact, I want to comment, you were the only one that was right on time within the 5 minutes.

RPTS JURA

DCMN MAGMER

[12:04 p.m.]

Mr. Stearns. I was impressed.

Ms. Clyburn. And I appreciate it.

One of the things that we are considering doing inside of the agency to promote greater transparency is revising our own ex parte rules and -- to make sure that the public knows how we are dealing with outside parties and what is being communicated. So we are taking internal efforts, making internal efforts towards that, also.

Mr. Stearns. I am going to start with my next question for Commissioner Baker.

Just recently, the D.C. Circuit threw out the FCC's cable ownership cap because the FCC had failed to account for all the video competition to cable that comes from satellite and phone companies. I guess will you commit not to support regulatory and interagency in today's competitive market and just allow innovation and without making detailed showing of both market power and market failure? And so perhaps you might comment on that.

Ms. Baker. Yes, I will commit to that. Absolutely.

I think we have a new media landscape. I think that is what the new D.C. court told us. I think that we need to continue to

foster innovation. I think, generally, as a principle I start with markets work better than regulation, and we need to make sure that we add all the incentives that we can to the marketplace.

Mr. Stearns. Mr. Chairman, I would just like comment on the D.C. Circuit's actions.

Mr. Genachowski. Well, when the market works and there is sufficient competition, then the FCC has no need to act. When the market isn't working and consumers could benefit from policies to promote competition, then the Commission must act. And I think we have seen over time that both are true, and it depends on particular circumstances.

Mr. Stearns. Thank you.

My last question, if I could, Mr. Chairman, is dealing with more of a local parochial issue. I have a community called Palm Cay in my congressional district, and they have a cable company called Cablevision of Marion County, and the problem is they can't terminate their cable service. We have written to the FCC about this, and it seems unfair and a potential violation of the FCC report and order 17-089 declaring exclusive contracts to be null and void. And I am just wondering if you could give us an update on my letter to you dealing on behalf of the Palm Cay community and what can be resolved ultimately and how quickly.

Mr. Genachowski. It is a fair issue to raise. We had a chance to speak about it, and after our meeting I spoke with the media bureau and told them this proceeding has been open since

2007. That is about long enough. So they are hard at work at resolving it. I can't give you a specific date, but we will work to resolve it and generally work to close out open proceedings like this.

Mr. Stearns. Certainly before the end of the year?

Mr. Genachowski. Yes.

Mr. Stearns. Thank you.

Mr. Boucher. Thank you very much, Mr. Stearns.

The gentlelady from the Virgin Islands, Mrs. Christensen, is recognized for 5 minutes.

Mrs. Christensen. Thank you, Mr. Chairman; and thank you all for your testimonies.

I have a parochial question, also. The FCC previously ruled in favor of interim cap on universal fund high payments to competitive eligible carriers in the Virgin Islands. We just had one. So we really lag behind the rest of the country in terms of competitive entry. Do you think that the interim cap in any way creates barriers for competitive entry in poor areas? And would the FCC consider exemptions for areas like mine that just had one carrier and now the universal high fund payments are closed off to any other carrier?

Mr. Genachowski. I had a little bit of a hard time hearing the question, but I think I understood it.

Tackling the challenges of universal service is very important for the Commission. On one hand, it has been an

extraordinary success for the country, helping deliver telephone service to all Americans everywhere, as Commissioner Copps said, without regard to who they are or where they live. At the same time, it is very clear that the system is under pressure for a series of reasons relating to changes in the marketplace. There are broad global issues that have be addressed with the USF, and then there are a series of the sort you mentioned that come up in particular markets that we have to address. Last, it relates in an important way to broadband, because we do need to move USF to a program that supports broadband.

I wish it were easy, and we could flash cut and move over. It will be difficult. It is an area where the Commission will be working on it. As Chairman Boucher said, he is working on a bill. We will be a resource for the Commission, and I hope this is something that we can all solve together. It is an important challenge for the country.

Mrs. Christensen. Thank you.

And I will just direct this out. Anyone can answer it.

As I read the testimonies, and we had NTIA and RES here last week, most of the outreach is done through the Internet. And we still have a digital divide in this country, and there are many people that are not getting the information. Someone said somewhere last weekend -- I don't remember who it was -- that in our communities, the disadvantaged communities, we don't even know what we don't know. So how do you plan to reach out to those

people who are still not connected? And we still have an issue of increasing demand for broadband as we proceed to build up. So are we able to reach people who don't have Internet connectivity to get their input as we move forward?

Mr. Genachowski. We have to. It is incredibly important. It is one of the reasons that we are doing the open workshops where people can come in and participate. They can participate online. They can come in. And it is why we are starting field hearings, as Commissioner Baker mentioned.

There is such an important, challenging -- I don't know if it is a Catch-22 or a virtual circle, depending on how you look at it. If the government wants to communicate with my 17-year-old, they had better use the Internet. If the government wants to communicate with my parents, don't try. And this is a real challenge for government, because we do have to reach people in a variety of ways when it comes to services in the ways that people actually communicate.

One of the big benefits of pursuing universal broadband is that -- and this won't happen quickly, but when it happens, there are tremendous potential cost savings for government. Because instead of communicating with people and providing services as we have to do both online and offline, we can begin to provide more and better services online. We can't do that until we have really achieved universal broadband because of the real challenges that you mentioned. We can't leave people with an inability to

participate and to benefit from the services and information that the government supplies.

Mr. Copps, did you want to --

Mr. Copps. Well, I very much agree with that. But I also would just add that until we get to that day when we have that capacity, we have all of these nontraditional stakeholders who don't know what is going on at the FCC and don't have the resources to hire a lobbyist or a law firm in Washington, D.C. Yet they are impacted daily by the decisions we make.

So I think -- and Chairman Genachowski is doing a sterling job of this. We are going to have hearings. We are going to be reaching out to minority groups. We are going to go to the inner city as well as to rural America. We are going to talk with the disabilities communities. I have already been to Indian country, because the problems there are so glaring.

So we really have to use every technology, every device, old-fashioned, new-fashioned, or whatever, to get the word out and get the participation of everybody in this broadband plan. Because, in the final analysis, the broadband plan ought to be of, by, and for the American people.

Mrs. Christensen. I have about 10 seconds, if you would like to add.

Ms. Clyburn. He is allowing me to go out of order of seniority.

One of the things that I am excited about is it was mentioned

about the field hearings. I am planning a field hearing for October 6 in Charleston, South Carolina. And one of the things that I am keenly tuned in on is I am trying to do it from a two-fold perspective, meaning doing some work in the city where you have some problems of maybe underserved challenges and going out into rural areas where there are unserved challenges and speaking with some friends and church members who -- some of whom are friends, also. I don't want to say that I am excluding. And librarians. My mother was a librarian. All of these groups that you mentioned. All of these persons need to be engaged in these conversations, and then and only then can we maybe get the ground swell that we need to promote this broadband universe in which we know the public can benefit.

Mr. Boucher. Thank you very much, Mrs. Christensen.

We are expecting a series of recorded votes on the floor starting potentially within the next 10 minutes, and Mr. Stearns and I were talking about a way that we might be able to facilitate the questioning of witnesses in the hope that perhaps we could finish our work here before these votes begin. We have a large number of them pending, and it may be an hour or more before the votes are completed, and we were thinking that perhaps we could ask members if they would be willing just to ask one question each. Would that be satisfactory? If anybody seriously objects to that, this might not -- Mr. Barton.

Mr. Barton. Reserving the right to object.

Mr. Boucher. Please, Mr. Barton.

Mr. Barton. I am not aware, what is the availability of the Commission? Do they have to leave at a time certain?

Mr. Boucher. I am not aware that they do. We could have them go to lunch and then come back. My concern is that I think many members may have flights scheduled for the early afternoon in anticipation of the House adjourning for the week, which we are going to be doing by about 1:30 or so.

Mr. Barton. Continuing my right to reserve, Mr. Chairman, I will do whatever you and Mr. Stearns have agreed to. But I think it is so rare that we get the entire Commission here. If members self-select not to question, then that is their decision to self-select and, in my case, go to Texas as opposed to stay here and be intellectually stimulated. But I would encourage the chairman and the subcommittee ranking member to allow those members who wish to fully participate past the departure time of the Congress or the adjournment time to do so, because we don't get the entire Commission very often. And there are some new ideas. I listened in my office to all the statements of the Commissioners, and I would -- again, if you and Cliff have made a decision, I am not going to object.

Mr. Boucher. Would the gentleman yield to me?

Mr. Barton. Sure.

Mr. Boucher. We haven't made a decision. We decided we would ask the members what they wanted.

Mr. Barton. My preference would be to let each member ask at least 5 minutes. That is a preference.

Mr. Boucher. And I agree with what the gentleman's saying about the unusual importance of this hearing as compared perhaps to some others. We will proceed in regular order. I think we have now consumed most of the time we have remaining anyway.

The gentleman from Texas, Mr. Barton --

Mr. Barton. This happens to be my time.

Mr. Boucher. -- is recognized for 5 minutes.

Mr. Barton. I am not going to try to use all 5 minutes.

I am going to list the things I want to talk about and then let the Commissioners, primarily the chairman -- I want to talk about transparency. I will just say that I heard what Commissioner Copps said. I agree with him. I would be happy to work with the Commission to put together an amendment or a draft bill to try to get the subcommittee and full committee -- I think you all should be able to communicate without having to go into formal session. So however we can facilitate that, I support that.

As I said in my opening statement, I think we need to have more transparency in the Commission, and Mr. Stearns and I have introduced a bill to that effect, and we would ask the Commission to comment on that bill to see if it needs to be improved.

My first question is to the new chairman on the spectrum auctions. We don't have much new spectrum in the pipeline. We

have a bill in on it that is a bipartisan bill on the spectrum inventory. Do you have any thoughts that you would share with the committee on what conditions, if any, if we try to reauction the D Block that has already failed once?

Mr. Genachowski. Two points quickly, Mr. Barton. One, on transparency and FCC reform, I look forward to working with you as part of our process to make sure that we have an FCC that is open, transparent, fair, data driven, and that really is the expert agency that benefits the entire country.

On spectrum quickly, second, there is a demand crunch coming. We need to put more spectrum in the marketplace, and the pipeline is not what it needs to be. And so I would welcome passage of the inventory bill, and our role in that and the NTIA's role in that I think will be very important.

Third, with respect to the D Block, that is a spectrum that we can get on the market soon. The challenge of the public safety component of it is real. I am focused on making sure that we get it right. I don't want to rush into a failed auction, but I also think we need to move quickly to address the issues Commissioner Copps as acting chairman caused the agency to begin work on.

The agency has jumped into it. The D Block, of course, comes up often in connection with our broadband plan. So we don't have anything now in terms of what we will be looking at, but the staff is hard at work.

Mr. Barton. Do you have a time frame to put some proposals

out there for the D Block?

Mr. Genachowski. It is something that is being actively looked at, and I think no later than in connection with the broadband plan we will have an option.

Mr. Barton. Are you talking about February? Is that because the broadband plan I think is --

Mr. Genachowski. Yes. No later than February we will have real options that we are looking at and considering, because of the nature of the spectrum and its relationship to a national broadband strategy.

Mr. Barton. My last question deals with universal service reform. I don't think it is any surprise to anybody who has followed this committee that I am a big proponent of that. The universal service fund continues to grow. The costs continue to go up. Do you have any -- again, this is to you, Mr. Chairman. Do you have any thoughts on reform measures with regards to the universal service fund? And, do you have a timetable for the Commission considering those?

Mr. Genachowski. The timetable will be similar. No later than February in connection with the national broadband strategy will we have options to look at and policies to consider. Because USF and broadband will be an important part of the discussion. Many people are raising it, including many on the committee.

As I said before, there are real opportunities and challenges both with the universal service fund. I don't think I need to

repeat them. You know them extremely well. It is a complex challenge on which there are some areas in which there is beginning to be some consensus, but more work needs to be done to have universal service reform that works well for the country. I know the committee is looking at this as well, and we will continue to be a resource for the committee as it does its work.

Mr. Barton. My next question, if you don't want to answer this, you don't have to. Do you have a frequent conversation with the President? I mean, are you and he in communications so that we know that the FCC has got a direct line to the White House? Which we haven't had with some other chairmen in the past.

Mr. Genachowski. I don't think anyone speaks with the President as frequently as they might have in the past.

Mr. Barton. All right. I yield back, Mr. Chairman.

Mr. Boucher. Thank you very much, Mr. Barton.

The gentlelady from Florida, Ms. Castor, is recognized for 5 minutes.

Ms. Castor. Thank you, Mr. Chairman.

Chairman Genachowski, I appreciate your words on the spectrum; and I would like to hear from the other members concerning the spectrum, what your thoughts are, what your concerns are as we look at greater availability for new and innovative services.

Mr. Copps. Well, I certainly share the thought of several of my colleagues, that we are in dire need of a spectrum inventory.

I think as of 12:20 this afternoon on the 17th of the month, there is nobody in the United States who has the foggiest idea of how much spectrum is being used and utilized and if it is being utilized 24 hours a day or 10 seconds a day. So we really need to get a handle on this.

We need to make sure our auction system is working properly and is inviting the participation of small as well as large competitors. We need to make sure that spectrum is being used and utilized; and, if it is not, I think we ought to be looking at some alternatives for other uses of that spectrum that may have been licensed.

So these are a few of the things that I think we need to be concerned about. But what I am hearing from all of the folks testifying on the broadband workshops is that, in many ways, this comes down to a question of is there spectrum to do what we need to do.

Mr. McDowell. I would welcome an inventory on spectrum, absolutely. We need to be careful what our expectations are once we get that inventory. Given any particular point on the map, it is very difficult to determine who is using what spectrum for what purpose, and I want to make sure I am briefed so I can allow time for Commissioner Baker, who is the true expert in government use of the spectrum, since she managed that as acting head of NTIA. But we have a lot of spectrum that is not on line yet, from our AWS 1 auction in 2006. That is not yet built out. We have the

700 megahertz auction. Remember, the DTV transition just happened. We just had that auction last year. That is not built out. We have a lot of work to do in the television white spaces.

All of this is fabulous spectrum. The propagation characteristics there are that signals can travel a long distance and penetrate buildings; and it can be a fabulous asset, a great arrow in our quiver to resolve the broadband problem in unserved America.

But let's be careful of what we want to do. Let's make sure we are flexible. Let's not try to micromanage the use of that spectrum. Let's make sure we require it to be used. But by the time we implement a government-mandated business plan, sometimes the market moves past that, as we have found in several instances. So we need to be careful.

Also, to be mindful that our spectral efficiency in this country doubles every two and a half years, sort of tied to Moore's law of computing. So that since Marconi's first transmission by radio or invention of the radio, we are now two trillion times more spectrally efficient. So keep that in mind.

Ms. Clyburn. I agree with my colleagues that we need to understand what is out there and how it is being used. It is critical. It is really critical that we have detailed data so we can allocate more effective -- allocate spectrum and allocate it effectively.

Ms. Baker. I will agree with all my colleagues. But where

we need to go is we need to have a more efficient, we need to have a more transparent and a more flexible spectrum policy.

And I think there is an awful lot of things we can do and an awful lot of ways we can work with our government partners as well. I think the government often hears government is inefficient, but DARPA spends more money on R&D in this area than probably anyone else. They have come up with a bunch of things like dynamic spectrum access and multi-antenna signal processing that are going to help us make more efficient use of what we have.

But I agree with Commissioner McDowell. We have a lot that is in the pipeline. We have the 700 megahertz. We have the AWS. We have the BRS spectrum. That is all coming up that is not fully built out. But we need to lay the plans for the step after that, and so I am committed to and look forward to working with you on that plan.

Ms. Castor. Thank you very much, Mr. Chairman.

Mr. Boucher. Thank you very much, Ms. Castor.

The gentleman from Michigan, Mr. Upton, is recognized for 5 minutes.

Mr. Upton. Thank you, and I will be very quick. Two brief questions and a comment.

First of all, I want to make sure that you all know that I believe, on the wireless side, that folks are very satisfied.

We will deal with Mr. Markey's adaptor. I will make sure that he has got plenty, both in Massachusetts and here and both

when he is in the car as well as in his office. But we don't want to fix what is broken. I don't believe that there is an effort that we need to pursue to regulate.

My two questions are these: Regardless of which position one might take on the issue of special access market, all sides now seem to be asking the Commission to collect data on the market, and it seems to me that it is time to get the facts on the table, especially before you begin to work on the broadband plan.

So, Mr. Chairman, do you plan to collect special access data from the carriers and interested parties? And, if so, when? That is question number one, in the interest of time.

Just as we deal with the challenges of the transition to digital, we have a couple of areas, I would presume, around the country, certainly in my district where it seems like those challenges are a little bit high, of if we are able to accommodate perhaps a burst of additional power on the digital signal so that folks can get from WGN or some of our local channels that may be at the very edge would be helpful.

I look forward to hearing from you in terms of how you are dealing with those special, hopefully unique, cases; and I yield to you to respond.

Mr. Genachowski. On special access, it is something that we are hearing a lot about from multiple parties. The staff at the FCC has been working on the data issue for at least as long as I have been there. We haven't decided whether we will need more

data in order to reach a decision on special access, so the next step that you will hear from us is our view on whether we have enough data to make a decision.

On digital television, I have instructed the media bureau to work diligently, closely with every broadcaster in the country that has specific issues. The first challenge that Acting Chairman Copps at the time and Commissioner McDowell led so well was the overall challenge for the country. Now it is a lot of case-by-case problems that come up. The staff of the media bureau is showing up every day working with broadcasters to try to address specific issues, and we will work with you.

Mr. Upton. Thank you.

Yield back.

Mr. Boucher. Thank you, Mr. Upton.

The gentleman from Massachusetts, Mr. Markey, is recognized for 5 minutes.

Mr. Markey. Thank you, Mr. Chairman, very much; and thank you, Commissioner Genachowski, and, again, thank you for your brilliant decision in hiring Colin.

Mr. Genachowski. Thank you for your gift.

Mr. Markey. You know, we talk enough about public option, but I would like to talk about the portability option, which is this charger issue. You know, if you buy a new TV, guess what, when you plug it in, you don't need anything else. It works just like the old TV. If you buy a new radio, you plug it in. You

don't need anything else. It works just like the old. You buy a new car, guess what? They don't change the way you put gasoline into the car. It all is the same. It is kind of a standard -- you don't have to buy some new adapter to put the gasoline in your brand-new car, just like the old car.

So here you have this thing where tens of millions of these devices have to be purchased and then thrown away within like a year and a half or so as you get your new device. That is a pretty huge environmental problem across the country to dispose of all this stuff, plus it is just a pain, just a pain to have to go through it.

So my hope is that the Commission could look at this. My intention is to introduce legislation on it. I am going to work with Mr. Doyle and work with other members to kind of track down this issue and just to make it easier for people so they don't have to fork over this extra dough. So if I could work with the Commissioners, would you be willing to work with me on that?

Mr. Genachowski. We would be happy to work on it. I think simply raising the issue has done the first step, which is challenging our great technology industry to come up with a solution. I am glad that you have raised it. I have raised it with some technology companies. There is a desire to solve this; and looking at what, if anything, the FCC can do to incentivize some innovation to reduce the number of chargers would be something we would be happy to work on.

Mr. Markey. As the chairman of the Environment Subcommittee here, it is just becoming a huge environmental issue that is unnecessary. There has got to be some little fix that we can put in that makes the old adapter still usable. It doesn't seem that complicated.

And, second, you know, I am developing legislation to create an E-Rate 2.0 for broadband; and I noted that the Commission held a workshop on August 20 to identify new issues. Can you share your thoughts on updating and refining the E-Rate program to capitalize on broadband?

Mr. Genachowski. We are looking, as part of the broadband strategy, in part because Congress told us to, not only at employment and adoption but also what the statute called national purposes, how to make sure broadband serves health care, education, and energy. The E-Rate has been such an extraordinary success, let's lead the world in education, libraries, hospitals when it comes to broadband; and we would be more than happy to be a resource to you in thinking through the best way to make that happen.

Mr. Markey. That would help me a lot, Mr. Chairman.

The thought that I had back in January and February of this year was, here is this great stimulus package. There is a broadband component to it. Why don't we just have a plan for the Nation? And so that is why I added that amendment into the bill, so that we could all step back, put together this plan, affect the

whole country; and it goes everything from schools to hospitals but every aspect of our life.

Let's be honest. The only reason we have a smart grid is that we had a Telecommunications Act of 1996. Because, without broadband deployed across the whole country, you can't manage the wind and the solar coming in from the prairies and the desert. You can't manage it coming in from the ocean. You can't manage it coming off of people's roofs. You need the broadband telecommunications network to manage it.

So we need a vision here, you know? That is challenging the American people to accomplish it.

I thank you for the great work you are doing and all the other members. I know other members want to ask questions, so I will yield back the balance of my time.

Mr. Boucher. Thank you, Mr. Markey.

The gentleman from Illinois, Mr. Shimkus, is recognized for 5 minutes.

Mr. Shimkus. And I will be real brief, too, Mr. Chairman. Thank you for the time again. Thank you for the Commission's presence here. And I think we have got a lot of optimism going into the future.

For my friend, Mr. Markey, I will help him create a new Federal agency, and maybe we can move some stimulus dollars for this adapter program. This is most ridiculous thing I have heard of. Handsets are lighter, more efficient. We can't have an

adapter based upon 15 years ago when the cell phones were like bricks, and that is what will happen if we direct a solution to this. We have got to let the market do that.

But I do agree with Ed on the broadband deployment and the mapping issue. And I am always angry when we compare apples to oranges and we talk about the OECD. In comparing European countries, which are small, I always talk about being stationed in Germany and being able to drive across the entire country in like 3 hours; and I can't get from one part of my congressional district to another in 3 hours. Compare our ability to deploy with the European miles.

So, please, when we move forward, let's get off this Europe is this, Europe is that. Let's get like, we say in the health care debate, a unique American experience that meets our needs and not compare us to other places in the world.

And I am just going to end with that, and I don't have a question, Mr. Chairman.

Mr. Boucher. Thank you very much, Mr. Shimkus.

The gentleman from Pennsylvania, Mr. Doyle, is recognized for 5 minutes.

Mr. Doyle. Thank you, Mr. Chairman.

Mr. Chairman, in 2003, and again in 2007, the FCC, on a unanimous bipartisan basis, voted to recommend to Congress that statutory limitations on low-power FM radio stations are contrary to the public interest and should be repealed. I have introduced

legislation, H.R. 1147, the Local Community Radio Act, that will do just that. We have already had a hearing, and it is my hope that our esteemed chairman will allow us to proceed to a markup and pass this legislation soon.

I know that from the vote in 2007 Commissioner Copps and McDowell voted in the affirmative, but we have three new Commissioners. So just a simple yes or no from our three new Commissioners. Do you also recommend that Congress lift the restrictions on LP/FM stations to so-called third adjacent protections?

Mr. Genachowski. Based on what I know, yes.

Mr. Doyle. Commissioner Clyburn?

Ms. Clyburn. Yes.

Ms. Baker. Yes.

Mr. Doyle. Okay. It is unanimous, Mr. Chairman. Thank you very much.

One other quick question, because I know we are being pushed.

In 2007, many of us have communicated an interest in convening a special access proceeding, and I can remember a letter that Chairman Markey sent back in the spring of 2007 urging action on that proceeding. Since then, the issue has laid dormant.

Commissioner Copps, I know you were supportive of learning more; and I know, Commissioner McDowell, back in June of 2007 you wrote a letter back to the chairman saying that you wanted a fresh record. My question is, now that both sides have been willing to

provide the right data -- and this question is to all the Commissioners -- will you support finishing that inquiry that has been sitting there since 2007 sometime before we all die, preferably by the end of the year?

Mr. Markey. Will the gentleman yield?

Mr. Doyle. Yes.

Mr. Markey. Thank you. And I am closer to that point in time than you are, so thank you. A well-raised question.

Mr. Genachowski. Yes. It is an important topic that has been raised with us by so many people that special access is a key part. It is an important part of the communications ecosystem, and we do need to make sure that it is competitive. So it is something that the staff is actively working on and we will be addressing soon.

Mr. Copps. I remember signing a letter to then subcommittee Chairman Markey that September, 2007, would suit me just fine for deciding special access; and I remain of that opinion.

Mr. McDowell. I think we should resolve the issue. It is very important to broadband. I think what we need, though, and I have been asking this for 2 years and it could have been done by now, a long time ago, is a very granular analysis of data gathering. Not just both sides. There are more than two sides on this. There are multiple sides with new entrants as well. So a cell site by cell site -- I will say it again. A cell site by cell site, building by building data of who is providing special

access where and at what cost is the exact same information that the Department of Justice had in the bill. I see mergers of many, many years ago. It is completely doable.

I have been talking to our new head of Office of Strategic Planning, Paul de Sa, about this. And I think that is the only way that, if the Commission does anything in the future, that is sustainable on appeal. So I am saying it again.

Ms. Clyburn. This is a complicated issue that I look forward to working on with speedy resolution involving all stakeholders and what I know will be a data-driven process.

Ms. Baker. She is right. Especially as a new Commissioner, it is complex, it is contentious, but we need to solve it. We need to solve it as rapidly as we can. Because it is an input to an array of the competitive services, including wireless. So I think we all are committed to better data and making a decision quickly.

Mr. Doyle. Great. And just very finally and quickly, I want to put a plug in for asking the Commission to please take a look at wireless microphones in the 700 megahertz. This has been brought up as a key public safety and public interest to the community. And I hope that we will address that soon, too.

Mr. Chairman, I thank you. I yield back.

Mr. Boucher. Thank you very much, Mr. Doyle.

We now have less than 5 minutes remaining to cast votes on the floor. Mr. Deal, do you want to ask your questions?

Mr. Deal. I would like very much to.

Mr. Boucher. Mr. Deal.

Mr. Deal. Georgia football hangs in the balance.

Recently, the Georgia Athletic Association entered into a 10-year contract with an interscholastic organization for all exclusive rights to their broadcast and to their paraphernalia, et cetera. That company, in turn, entered into a contract with Cox Communications, the sister -- the primary station being in Atlanta, Georgia. They have also now apparently refused to enter into contract agreements with traditional radio stations that have, for as long as 60 years in some cases, been able to broadcast Georgia football.

Now, the result of that is, is that the FCC has approved the location and sale of radio stations from one small community into others. For example, now Cox Communications owns five radio stations in Athens, Georgia, the home of the University of Georgia. They have located towers as a result of those consolidations and ownerships of these other stations within 65 miles of the existing broadcast stations' reach; and, as a result of that 65-mile limitation, which is in the content owners' contract, the effect is that these historically broadcast stations have now been deprived of this ability to broadcast Georgia football games.

Now, my question is, does the FCC take into account any of these so-called contractual obligations that will infringe on

existing broadcasters when you approve of a new license or a transfer of a license? Do you in fact look at what the effect of it is? And, in many instances, it is only the town that is supposed to be the basis of the license. The only time that they have any relevance is when, every hour, they announce their call letters and they use that town's name, because there is nothing located in that town whatsoever.

That is my first question: Do you have the ability to look at those kind of tying agreements in broadcast content when you approve the location of stations?

And the second one is, is there any jurisdiction in the FCC to look at what might be considered unfair trade practices that might monopolize the public air waves? Or is this something that is within the Federal Trade Commission's jurisdiction?

Mr. Genachowski. If I could, let me pledge to get back to you on the answers to some of the technical questions about FCC jurisdiction. At a higher level, you are raising issues about a changing media landscape, competition in this new environment, the importance of local broadcasting, and the real interests of consumers and viewers.

One of the things that I am trying to make sure we do is to make sure that we have an FCC that is smart about the marketplace, smart about the consumer needs, smart about viewer needs. So let me -- I understand that this is an important issue, and we will follow up with you to understand it better and answer your

questions about jurisdiction.

Mr. Deal. Mr. Chairman, could we be allowed to formalize these into formal questions to submit to the panel?

Mr. Boucher. Without objection, the record of this hearing will remain open for a period of 2 weeks, during which time members can submit written questions to our witnesses.

Mr. Deal. Thank you.

I yield back.

Mr. Boucher. Thank you, Mr. Deal.

Mr. Buyer, we have got about a minute left on the floor.

Mr. Buyer. I am going to be really quick so I can let all of you go.

We are going down the line, yes or no: Do you support exclusive handset arrangements? Yes or no?

Mr. Genachowski. It doesn't lend itself to a yes or no. I apologize.

Mr. Buyer. Keep going.

Mr. Copps. I would give the same answer.

Mr. Buyer. That is a nonanswer. Keep going.

Mr. McDowell. Yes.

Ms. Clyburn. The same answer as the Chair.

Mr. Buyer. I have got three nonanswers and a yes.

Ms. Baker. Yes.

Mr. Buyer. Two yeses and three nonanswers.

All right. On the issue that was brought up with regard to

spectrum auction, you had mentioned that the 06 has not been a build-out. Here is the question: I have a real problem, i.e., the Federal Government. Fidelity I think is a tremendous -- it is a value of the virtue of integrity. And if the Federal Government -- if we are not going to have fidelity and uphold our commitments to companies that actually give us money and we don't free up that spectrum, should we consider a government penalty?

Right down the line. Should we consider a government penalty, in other words, pay interest to these companies for the use of their money?

Mr. Genachowski. I am not sure I understand the question. If companies don't comply with FCC rules, they should --

Mr. Buyer. How about, we are anxious to penalize companies, And when it comes to auction, we will take their money, but we are not freeing up spectrum. We are not -- agencies are standing in the way. DOD, for example. So should we be paying interest on the use of this money when they pay it in?

I am curious. Right down the line, yes or no.

Mr. Genachowski. I would like the chance to speak with you further about it, because --

Mr. Buyer. A nonanswer. Go down the line.

Mr. Copps. Nonanswer.

Mr. McDowell. Yes.

Ms. Clyburn. Nonanswer.

Ms. Baker. Yes.

Mr. Buyer. Wow. Interesting.

The other is, Ms. Clyburn, I spent a couple days with your parents not long ago, a couple years ago, and you have probably heard this before. You look like your mom, you sound like your mom, and that is a compliment.

Ms. Clyburn. Thank you.

Mr. Buyer. Everybody thinks it is your dad, but it is your mom. That is what I learned quickly by spending a couple days with her.

When you go to Charleston and you do this little hearing, and I want you to think about the unserved, whether it is on Johns Island, Edisto, Walhalla. So when you are thinking about the underserved, think in your mind we do not want to bring shame into the system. Shame is, is when you -- if you are at a buffet and 80 percent of the people have already eaten but 20 percent haven't had a chance to eat, you don't go get seconds and get in line before people who haven't eaten. Right? That is shameful conduct in America.

So as you make these decisions about the difference between unserved and underserved, let's make sure that we are fair and equitable and we don't embrace shameful conduct and behavior by us.

Ms. Clyburn. Absolutely.

Mr. Buyer. The last thing is, in a market-based approach, please do this for me when you think about these judgments. Focus

on consumer demand, and let supply and price work itself out. Okay?

Ms. Clyburn. I appreciate your guidance.

Mr. Buyer. And I see the power of South Carolina on this Commission, so I will be keeping my eye on it. Thank you.

Mr. Boucher. Thank you very much, Mr. Buyer; And thanks to all the members for being expeditious. We, unfortunately, do have at least one other member who wants to propound questions. We now must recess the subcommittee. I would suggest that each of you have a marvelous lunch, and please return here at about a quarter to 2:00, and at that point in time well continue our hearing. It should not take very long after that.

The hearing stands in recess.

[Recess.]

RPTS THOMAS

DCMN MAGMER

[2:15 p.m.]

Mr. Boucher. The subcommittee will come to order.

I want to thank the members of the FCC for their patience. I am sorry that we were delayed a little bit longer than I had predicted. That is usually the case. But you have been very patient. I hope you enjoyed lunch, and welcome back.

The gentleman from Oregon, Mr. Walden, is next to be recognized, and he is recognized for 5 minutes.

Mr. Walden. I want to thank the Commissioners. I have enjoyed getting to know some of you over the years, and I look forward to spending more time with you. And I appreciate the cordiality that we are seeing on display today, your willingness to work together and talk together; and I realize, with many new members and leadership, it is a new FCC.

I had not planned to get into this issue today, but the letter that has come forward from interest groups prompted me to do some research in the last 24 hours.

It is troubling what I have been reading regarding a gentleman who has now been given a special position at the Commission, head of diversity and special counsel position, Mr. Lloyd. And I was just reading a document from the Center for American Progress where he outlines his various views, an article

of July 24, 2007. And, you know, I think I have shared with some of you that my wife and I were in small market radio ownership for nearly 22 years. My father helped put stations on the air back in the 1930s and believed very strongly in the responsibility of licensees to serve their communities.

So when I read that this gentleman says that commercial signal broadcasters want to be trustees of public property but without responsibility, I gotta tell you, I take offense to that. I don't think I am taking that out of context. It is written right here.

And some of the other comments that have recently been made available to me show me that you have got a person in there who I don't recall over the years the FCC having that strongly opinionated a person in a position like that. The FCC to me has always been a very professional organization that didn't go down this path. So I find this very offensive.

Chairman, you and I had a very good conversation about fairness doctrine. You know my feelings on that. I received your comments, and I understand you are for not putting it back in, and I am not for putting it back in. It didn't work when it was there. I happen to believe it is probably unconstitutional.

The information from Mr. Lloyd would indicate he is not for putting fairness doctrine back in. He is just for a whole different scheme that gets to the same outcome. And his appointment occurred after our conversation. This is all bubbling

up right now.

But you want to talk about czars, I hope we don't have a government speech czar in place. It is going to drive a whole different mechanism through the rule making and challenging the licensees.

I am just trying to figure out what his position is, what his responsibilities are. Will we have an opportunity to ask him questions about these issues? I have got to tell you, I am out of the business now, but I am deeply offended by what I read here and troubled. And I open it up to any of you to comment.

Mr. Genachowski. First, I did enjoy our meeting. I mentioned when you were out of the room earlier it led to some constructive follow-up. We took your idea around -- I happened to have the media bureau staff meet with broadcast engineers that actually produced some concrete suggestions. It relates to some of what the goals are with the staff of the FCC.

In my opinion, an expert agency needs to have a broad range of people with different backgrounds, different expertise; and we talked about some of those people when we got together, people from the business community, a vibrant exchange of ideas internally.

I understand some of the concerns you have, and I can say a couple of things.

One is, to the extent there is a concern that the Commission would engage in any censorship of broadcasters or anyone in the

media on the basis of political views and opinions, The answer is, we won't. The first amendment prohibits it. It won't happen.

To the extent that there are concerns -- you have indicated about the Commission not being aware of the economic conditions and challenges that broadcasters face. I can assure you that anything the Commission does would take that into account. The Commission needs to understand what is going on with broadcasters.

Similarly, I appreciate your point about broadcasters and special responsibilities; and I know so many broadcasters take that seriously, provide very valuable services to the community. Americans value it, local news and information or emergency alerts, other emergency information, traffic, weather. So I actually think there is a lot of agreement around core principles.

Diversity is another area where for a very long time there has been -- I think there still is -- a bipartisan consensus that it is an important objective of the communications policies and the FCC. The diversity goals are mentioned in hundreds of FCC decisions. They are explicitly in the Communications Act. The Supreme Court has acknowledged that it is a role, and the idea of having diversity as an objective to the FCC and having staff focused on it seem to be a natural extension.

Mr. Walden. I do not take exception to that. I just begin to read what he said. There are video comments about Hugo Chavez. I mean, there are some pretty outrageous things being said, having been written in the past, and that troubles me, that somebody that

is that opinionated to the extreme element that he is, from my perspective, it is not going to bring balance to that diversity position that you created.

Mr. Genachowski. A couple of points, if I could.

One is, the policy of the Commission is made by the Chairman and the Commissioners. Staff have many different ideas all over the map.

Mr. Walden. Having been a licensee, we don't talk to the Commissioners. We talk to the staff. You know what I am saying? They have extraordinary power in any agency to tilt the rules, to interpret them, to interact with different publics. And this just seems to be a very biased person. We all have our biases, but this one just seems to be out there.

Mr. Genachowski. The other thing that I wanted to make sure that you knew is, as I said before, Mark Lloyd is not working on these issues. He is not working on fairness doctrine issues, censorship issues. He is not working on these issues. He is working on opportunity issues primarily now around broadband adoption, focusing on making sure that broadband is available to all Americans.

Mr. Walden. So he is not going to be working on the license issues, none of those things?

Mr. Genachowski. He is not working on those issues. No.

He is someone who is well-known to many people in the communications industry for a long time. He has been involved in

these issues. He is known to virtually all of us here on the panel. He has taught at MIT. And, as I said, he is someone who, of course, we would make available to you or anyone to speak with if you have any concerns, as we would any staffer at the FCC.

Mr. Walden. Mr. Copps?

Mr. Copps. I would just encourage you to take advantage of that offer to get to know him a little bit better. Every human being is a totality with a lot of different experiences and a lot of different ideas.

We have worked very closely with Mr. Lloyd when he was at the Leadership Conference on Civil Rights -- an incredible organization that is -- under the leadership of Wade Henderson. He was of great help during the DTV transition with helping mobilize a lot of nontraditional stakeholders and helping get the word out on DTV.

So he has a very distinguished record. Chairman Genachowski said nothing that I would disagree with. I would agree with everything that he said. We will be -- the Commissioners will be making the decisions.

But we want a place of intellectual ferment and different ideas. We have an organization of 1,800 people. I don't think everybody is going to go in lockstep. And then we rely on the judgment of the organization and the people at the top of the organization to make intelligent decisions about where we are going.

But as for the personal characteristics of this particular individual, I think they are of the highest; and I, for one, am pleased that he is at the FCC.

Mr. Walden. Could I hear from the other Commissioners, sir?

Mr. Boucher. Well, you are going on 9 minutes now, Mr. Walden. But if others want to comment very briefly, that would be good.

Mr. McDowell, if you have a comment.

Mr. McDowell. Well, first are of all, I have met Mr. Lloyd in the context of my work at the FCC and in the work of the digital TV transition, so that is the only real context that I know him. He did, with the general counsel, have the courtesy to come to me last week. We had a very nice meeting. We talked about what his mission, what his portfolio would be at the Commission, and it was as the Chairman had outlined.

I share your concern with the substance of his writings and what he has been reported as saying. I hope that does not become Commission policy. I certainly will be very vigilant in defending the first amendment and the rights of broadcasters and those who speak over the airwaves in that regard.

At the same time, I do think that the Chairman and CEO of the FCC does have the prerogative to hire folks he wants to.

At the same time, to your point, the career staff or staff below the Commissioner level can have great influence without us knowing sometimes; and that should be maybe part of FCC reform, to

make sure it is as transparent an agency as possible and take the Chairman at his word that he will work in that direction. He has certainly taken some steps in that regard. But we will all be watching and mindful, and sometimes just shining a spotlight on an issue or concern can be very curative and very positive.

Thank you.

Mr. Boucher. Thank you very much, Mr. Walden.

Well, I think we have answered this question.

I want to say thank you to each of the Commissioners for your attendance here today and for the testimony that you provided. And I can say that I have tremendous confidence in your ability to undertake the difficult challenges before you and make outstanding decisions, and we all on this subcommittee look forward to our coordination with you as together we seek to advance American telecommunications policy.

We will be having other hearings. We will invite your attendance from time to time and be in formal conversation with you between those hearings.

So with the thanks of this subcommittee for your appearance today, your outstanding testimony, this hearing stands adjourned.

[Whereupon, at 2:30 p.m., the subcommittee was adjourned.]