This is a preliminary transcript of a Committee hearing. It has not yet been subject to a review process to ensure that the statements within are appropriately attributed to the witness or member of Congress who made them, to determine whether there are any inconsistencies between the statement within and what was actually said at the proceeding, or to make any other corrections to ensure the accuracy of the record.

RPTS JANSEN

DCMN HOFSTAD

KEEPING THE NEW BROADBAND SPECTRUM LAW ON TRACK

WEDNESDAY, DECEMBER 12, 2012

House of Representatives,

Subcommittee on Communications and Technology,

Committee on Energy and Commerce,

Washington, D.C.

The subcommittee met, pursuant to notice, at 10:01 a.m., in Room 2123, Rayburn House Office Building, Hon. Greg Walden [chairman of the subcommittee] presiding.

Present: Representatives Walden, Terry, Stearns, Shimkus, Rogers, Blackburn, Bilbray, Bass, Gingrey, Scalise, Latta, Guthrie, Kinzinger, Barton, Eshoo, Markey, Doyle, Matsui, Barrow, Christensen, Pallone, Rush, Dingell, and Waxman (ex officio).

Staff Present: Ray Baum, Senior Policy Advisor/Director of Coalitions; Mike Bloomquist, General Counsel; Sean Bonyun, Communications Director; Matt Bravo, Professional Staff Member; Andy

Duberstein, Deputy Press Secretary; Neil Fried, Chief Counsel, C&T; Debbee Keller, Press Secretary; David Redl, Counsel, Telecom; Charlotte Savercool, Executive Assistant; Lyn Walker, Coordinator, Admin/Human Resources; Tom Wilbur, Staff Assistant; Roger Sherman, Minority Chief Counsel; Shawn Chang, Minority Senior Counsel; David Strickland, Minority FCC Detail; Margaret McCarthy, Minority Professional Staff Member; and Kara van Stralen, Minority Special Assistant.

Mr. Walden. I would like to call to order the Subcommittee on Communications and Technology for our hearing on "Keeping the New Broadband Spectrum Law on Track."

I want to thank everyone for being here today.

And before I begin, I would like to start the hearing off, this subcommittee hearing, recognizing five hardworking members of our subcommittee who will be departing the United States Congress, including our colleagues Cliff Stearns, Mary Bono Mack, Brian Bilbray, Charlie Bass, and Ed Towns. We certainly appreciate the service that they have rendered to the people of the United States, to this full and our subcommittee, and the work they have done. And we appreciate both their service, and we wish them well in the next chapter of their lives.

We will also miss Phil Gingrey's presence in our subcommittee's hearings. Now, he won't be going far.

Phil, we wish you well in your new role as vice chair of the Environment and Economy Subcommittee.

Meanwhile, we will have some new members joining our full committee and subcommittee, including Billy Long, a member of the Missouri Professional Auctioneers' Hall of Fame. So, Commissioners, as you write your rules for these auctions, I humbly volunteer Billy to be your auctioneer.

Look, we are here today to check on the progress at the Federal Communications Commission at following the law and implementing the incentive auction legislation Congress passed last year.

Not only does this new law hold the potential to unleash new technology and create hundreds of thousands of American jobs, but it also is the source to fund the build-out of the interoperable broadband public safety network. That is an important process for our police and firefighters. It is important that we get this done. It was one of the remaining items of the 9/11 Commission that lingered for session after session after session until our subcommittee and our full committee finally got this across the line.

While I am not about to micromanage how the FCC operates your auction, I do expect the FCC will follow the law, including maximizing the proceeds from the auction. Not only does our leadership of the wireless world hinge on the agency's efforts, so, too, does the fate of the public safety broadband network. Making this a successful auction is a goal I know each and every one of us shares.

The U.S. has long led the world in spectrum auctions, with an auction model based on the elegant simplicity of one-course concept. Markets, not the whims of regulators, are best-suited to ensure that spectrum is put to productive and innovative use. I know from some of your testimony you have pointed out, I think, especially some of our newer commissioners, the success the FCC has had over the years at doing good auctions.

However, we have also learned of overly prescriptive auction rules can lead to less than successful auction results. The FCC so encumbered the D block auction of the lower 700 meg band that a 10 megahertz license for the use of prime broadband spectrum failed to

garner more than a few token bids, and those were well below the true value of that very important spectrum. So the FCC must avoid overly prescriptive auction rules and, instead, rely on market mechanisms that have a proven record of success.

Remember, the revenue generated, which was used in part to help pay for the middle-class tax cut and extension of unemployment benefits, will also be used to help pay for the interoperable public safety broadband network under FirstNet and to fund the Next Gen 911 service and to invest in public safety research and development. A broadcast incentive auction that fails to raise the revenue needed for these projects or that unnecessarily gives away billions in cleared spectrum will be considered a failure.

In particular, I would like a commitment that the commissioners will honor the language of the act that requires guard bands to be, and I quote, "no larger than is technically reasonable to prevent harmful interference between license services outside the guard bands." That is a direct quote out of the statute.

As we discussed in last month's receiver performance hearing, guard bands, although sometimes necessary to prevent interference between neighboring services, are a suboptimal use of spectrum. Their size should be minimized. Yet the Commission's NPRM contemplates two guard bands of at least 6 megahertz and contemplates expanding them to as much as 10 megahertz. I want to see the engineering analysis that justifies such fat guard bands.

Is 6 megahertz the minimum size needed? Could the Commission use

channel 37 as a guard band between mobile broadband and broadcasting to reduce the need for additional dedicated guard bands? Could the FCC reduce the need for guard bands by improving receiver performance? These are just a few of the unanswered and, in some cases, unasked questions from the Commission's NPRM.

Finally, let me make it clear, I support the use of unlicensed spectrum to foster innovation and provide much-needed offload for congested broadband networks. That is why our bill that is now law expanded the amount of unlicensed spectrum by identifying an additional 195 megahertz in the 5 gig band, frequencies ideal for this kind of use. It also codifies the use of white spaces.

What I cannot support is the unnecessary expansion of unlicensed spectrum in other bands that are actually needed for license services, especially at the expense of funding for public safety.

So let me be clear: Every megahertz of broadcast television spectrum that the FCC doesn't auction means less revenue to fund prerogatives already determined by this committee and this Congress, including prerogatives like FirstNet, Next Gen 911, and wireless research and development.

Thanks for joining us today. I Look forward to hearing your remarks and that of my colleagues.

Now I would like to recognize my friend from California, Ms. Eshoo, for an opening statement.

[The prepared statement of Mr. Walden follows:]

******** COMMITTEE INSERT ********

Ms. Eshoo. Thank you, Mr. Chairman. And good morning to you and to the Chairman of the FCC and the commissioners. Welcome. It is wonderful to have you here.

Mr. Chairman, I would like to begin by requesting that the December 10th letter signed by more than 370 companies and organizations who care about the future of unlicensed spectrum be placed in the hearing record. This letter and a February 13th letter describe the importance of unlicensed technologies to innovation, job creation, and public safety.

And I would also like to request that a bipartisan letter I sent to the FCC Chairman yesterday with Chairman Darryl Issa be included in the record. The letter demonstrates the significant unlicensed developments that have taken place just in the last 9 months since the spectrum bill was signed into law.

So I ask for unanimous consent to place both of these in the record.

Mr. Walden. Without objection.

[The letters follow:]

******** INSERT 1-1 ********

Ms. Eshoo. Thank you.

Mr. Chairman, ensuring that the FCC successfully implements the voluntary incentive auction, a mechanism that this subcommittee established, holds great potential to produce new jobs and to free up more spectrum at a time in which demand for wireless broadband continues to soar. The economic importance of this auction I don't think can be understated. Last month, a new study from the GSMA and Deloitte concluded that the doubling of mobile data use results in a 0.5 percentage point increase in GDP per capita growth.

As the FCC Chairman stated in adopting the proposed incentive auction rules, the Commission must engage in a process that is transparent, fact-based, data-driven, and draws on the leading experts in both engineering and economics. While I have confidence in the Commission's ability to carry out its process in such a manner, there are three key areas which I think deserve additional focus.

The first is the importance of constructing a band plan that maximizes the enormous economic benefits of both licensed and unlicensed spectrum. The proposed rulemaking adopted on September 28th of this year, consistent with congressional intent, recognizes that nationwide guard bands needed for interference protection can simultaneously provide unlicensed access, ensuring that every megahertz of spectrum is used efficiently. Simply put, nowhere in the act does it require the FCC to auction guard bands.

And as the title of today's hearing reflects, this subcommittee has a responsibility to keep the new broadband spectrum law on track.

That is the title of this hearing. Not to go off track, but to remain on track. Attempts to rewrite the law through the rulemaking process should be rejected by the Commission and will only serve to delay the release of new spectrum.

Second, Congress crafted the spectrum law to ensure that the FCC, by rulemaking, can adopt rules enhancing competition, consumer choice, and innovation. With the potential to free up as much as 120 megahertz of beach-front spectrum, wireless carriers of all sizes, both regional and national, must have an opportunity to participate in the auction process. Promoting a competitive landscape can be furthered through the completion of the Commission's interoperability proceeding as well as a revision of the Commission's spectrum screen, the process used to determine how much spectrum any one carrier can hold in a given market.

Finally, the Commission proactive, I believe, in its approach to educating broadcasters. Without voluntary broadcaster participation, there will be no new spectrum to repurpose. The FCC's Learning Everything About Reverse-Auctions Now, the LEARN program, is an important step in this process.

And I encourage the Commission to engage in individual outreach that ensures that broadcasters fully understand the benefits of separation. Ultimately, this is going to have to be a collaborative process that brings together broadcasters, wireless carriers, and technology companies for the purpose of revolutionizing the mobile broadband marketplace.

I thank Chairman Genachowski and every member of the Commission for your tireless efforts to ensure a successful auction, the first in the history of our country that is voluntary, and to each commissioner for being here today to share your perspectives.

And I yield back, Mr. Chairman.

[The prepared statement of Ms. Eshoo follows:]

******** COMMITTEE INSERT ********

Mr. Walden. The gentlelady yields back the balance of her time.

The chairman recognizes the gentleman from Nebraska, Mr. Terry.

Mr. Terry. Thank you, Mr. Chairman.

And for this Congress, this I expect to be my last official business as your vice chair. I want to thank you for a fun and good year. But even though I may lack that title on this subcommittee, it won't change my enthusiasm and activity on this committee in the 113th.

This incentive auction, if it is successful -- and I expect it will -- will accomplish a number of goals that will benefit consumers. As the Commission drills down to a set of final rules, I have confidence that it can balance the concerns of this stakeholders.

In doing so, I want to be sure that the intent of the Spectrum Act is respected. And in doing so, I want to be sure that this means that the Commission must raise the revenue necessary to pay for the FirstNet public safety network; it means that the guard bands must be no longer than technically reasonable to avoid interference. It also means that all bidders must be able to follow and participate in the forward auction. Finally, a faithful interpretation of the Spectrum Act requires the Commission to ensure that the auction spectrum is not encumbered with value-sapping restrictions on use or alienability.

I look forward to working with the Commission and my colleagues on the subcommittee in the coming months to make sure that this opportunity is not wasted and that we, along with the FCC, get it right.

At this time, I will yield to the gentleman from Texas, Mr. Barton.

[The prepared statement of Mr. Terry follows:]

******** COMMITTEE INSERT ********

Mr. Barton. Thank you, Mr. Terry.

I want to compliment the chairman, who is not here, for the new seats up here on the dais. They are very comfortable. I guess it is intentional that the commissioners still are in the uncomfortable seats. I am not sure.

I appreciate the subcommittee holding this hearing.

The Digital Television Transition and Public Safety Act of 2005 was passed when I was chairman. That created 84 megahertz of spectrum to be auctioned. Since then, we have also had the Middle Class Tax Relief and Jobs Creation Act of 2012, which requires that 65 megahertz of this spectrum be auctioned by 2015.

When it is my turn to ask questions to the Commission, I will have two issues: One is what happens to the low-power television stations in the major metropolitan markets who don't have Class A licenses. They are very concerned that they may lose their license and be left out in the cold. And, secondly, I am very puzzled about this three-way simultaneous auction. I really don't understand how that is going to work, and I hope one of the commissioners can explain that to me.

With that, Mr. Chairman, I yield back.

[The prepared statement of Mr. Barton follows:]

******** COMMITTEE INSERT ********

Mr. Walden. The chair now recognizes Mr. Latta.

Mr. Latta. Well, thank you, Mr. Chairman. And, also, I appreciate the FCC commissioners for being here at the committee with us today.

The Spectrum Act was a landmark legislation by authorizing volunteer incentive auctions. Everyone knows that the success of the auction is critical for deployment of a public safety network, for bringing spectrum to a competitive marketplace for mobile broadband, and the continued vitality of our nation's broadcasters.

This is truly an issue of global competitiveness. In fact, a recent study by Deloitte using Cisco data revealed a doubling of mobile data use leads to an increase of 0.5 percentage points in GDP per capita growth rates. And while the incentive auction is a key component to our Nation's spectrum policy, we must remember that it is only one component. The administration needs to work with Congress to look at ways to clear Federal spectrum, particularly the 1775 to 1780 megahertz band.

Once again, Mr. Chairman and Commissioners, we thank you for being here today, and we appreciate your transparency and openness as the incentive auction proposal is developed. We look forward to hearing your testimony.

And, Mr. Chairman, I yield back. Thank you.

[The prepared statement of Mr. Latta follows:]

******** COMMITTEE INSERT ********

Mr. Walden. The gentlelady from Tennessee, Ms. Blackburn.

Mrs. Blackburn. Thank you.

And I want to welcome our commissioners. We are so pleased you are here for your Christmas visit.

And, Chairman Walden, I thank you for holding the hearing.

The spectrum auctions have been authorized, and they should maximize the amount of spectrum that is available for licensed commercial mobile use and maximize revenues to the Treasury. Everywhere we go, all of our innovators to the broadband are saying, Let's maximize this, let's get these auctions out there. And the voluntary auctions will be easier if the Commission is faithful to the statute that Congress passed.

Commissioner Pai, we are delighted that you recognized that in your testimony. So we thank you for that.

We know that it is going to be necessary to get the spectrum out there if we are going to achieve our shared goals: mitigating our Nation's spectrum crunch; improving public safety; generating billions in revenue to help pay down this massive debt that we are facing in this country; creating good-paying, sustainable, long-term jobs. And we need to maximize participation among all interested parties.

So we welcome you. I am looking forward to the hearing.

And I yield back.

[The prepared statement of Mrs. Blackburn follows:]

******** COMMITTEE INSERT ********

Mr. Walden. The chair recognizes the gentleman from California, Mr. Waxman, for 5 minutes.

Mr. Waxman. Thank you very much, Mr. Chairman, for holding this important hearing on the FCC's implementation of spectrum legislation that Congress passed with strong bipartisan support. And I am grateful for the chairman and all of the members of the Commission's work in this with regard.

The Public Safety and Spectrum Act implemented one of the last remaining recommendations from the 9/11 Commission and created a nationwide interoperable public safety broadband network for first responders. It also provided new authority to the FCC to conduct the incentive auctions, with the purpose of alleviating the spectrum crunch fueled by the ever-growing demands for mobile broadband services and providing a downpayment for the public safety network. Overall, the new law will help drive our national economic growth while keeping the American people safe through state-of-the-art communications infrastructure for public safety.

The act was the result of months of bicameral, bipartisan negotiations that included many elements of compromise. The Federal Communications Commission is now grappling with several of these areas, and I would like to highlight two in particular.

The first is unlicensed spectrum. Unlicensed spectrum has been an incredible economic success story. Innovative services like Wi-Fi and Bluetooth are now ubiquitous parts of our communications system. They came about because of the use of unlicensed spectrum.

The law advances unlicensed use in several ways: It allows the FCC to use the existing white spaces in the broadcast band for unlicensed use; it gives the FCC authority to reorganize these existing white spaces to maximize their value; and perhaps most important, it allows the FCC to create guard bands in the repurposed broadcast television spectrum that may be used for new unlicensed services like Super Wi-Fi. This is smart spectrum policy that recognizes the increasingly interdependent nature of licensed and unlicensed operations.

The guard bands will both enhance the value of the spectrum to be auctioned by protecting it from interference and create a nationwide band of prime spectrum that can be used for new innovations in unlicensed use. That is why I am pleased that the FCC's proposed rules are faithful to congressional intent to promote innovation in unlicensed use.

Second, the law preserves the FCC's ability to use auction rules to promote competition in the wireless industry, while ensuring no single carrier is unfairly excluded from the auction process. As the steward of the public's airwaves, the FCC must have the authority to write auction rules that aim to avoid the concentration of spectrum in the hands of just a small group of companies.

The act strikes the proper balance in recognizing that while every carrier should be eligible to participate in some fashion in a system of competitive bidding, the FCC can continue to promote competition through its spectrum policies. To implement this part of the law, the

FCC is appropriately seeking comment on whether to establish spectrum aggregation limits or other rules to achieve these aims.

The conferrees on the Public Safety and Spectrum Act spent significant time debating and ultimately rejecting other proposals on unlicensed and bidder eligibility. No conferree's position was accepted outright, and our carefully crafted compromise is what became law. So I am troubled by attempts by some to relitigate issues that were resolved earlier this year when the bill passed Congress with widespread support. After-the-fact spin that unfairly twists the language of the law deserves little weight by the Commission or the courts.

My judgment is that the FCC is off to a good start in proposing incentive auction rules. I commended Chairman Genachowski and his colleagues on the Commission for these efforts. And I look forward to hearing all of your testimony today.

And I have 30 seconds if anybody wants it. Otherwise, I will yield it back so we can hear from our witnesses.

[The prepared statement of Mr. Waxman follows:]

******** COMMITTEE INSERT ********

Mr. Walden. The gentleman yields back the balance of his time.

And with that, we will proceed to hear the testimony of our witness. And we will start with the Chairman of the Federal Communications Commission, Mr. Julius Genachowski.

We welcome you back before our subcommittee, Mr. Chairman, and we look forward to your statement and commend you on all the work your commission is doing. Please proceed.

STATEMENTS OF THE HON. JULIUS GENACHOWSKI, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION; THE HON. ROBERT M. MCDOWELL, COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION; THE HON. MIGNON L. CLYBURN, COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION; THE HON. JESSICA ROSENWORCEL, COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION; THE HON. AJIT PAI, COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION

STATEMENT OF THE HON. JULIUS GENACHOWSKI

Mr. Genachowski. Thank you, Chairman Walden, Ranking Member Eshoo, members of the committee.

Mr. Walden. We seem to have a spectrum problem here.

Mr. Genachowski. There we go.

Mr. Walden. There we go.

Mr. Genachowski. I think it is unlicensed.

It is a pleasure to be here, and thank you for the many opportunities both to testify here and to work with all members of the committee outside of the hearing process on work in this very important area.

I do want to take a minute to thank Congressman Terry and Congressman Doyle for coming to the FCC last week when we adopted our Low Power FM Order, implementing a bipartisan act of Congress. It was a very special day for the Commission, the Commission staff, and I thank both of you for joining us.

This past week, Commissioner McDowell and I were part of the U.S. delegation to the WCIT in Dubai, where we worked together to defend a free and open Internet. I would note that members of the committee staff on a bipartisan basis were there, as well, and on a bipartisan basis were fighting for Internet freedom and openness.

The situation in Dubai right now is fluid. People are literally meeting right now. We have a strong American delegation on the ground led by Ambassador Kramer and including representatives from across government and the private sector. As I said, the situation is fluid. The issues are important. And I think we all understand that this will not be the last conference at which these important issues arise. And fighting for Internet freedom and openness globally will be something that we will all be working on together for quite some time.

In the U.S., the broadband sector is strong, and the U.S. has regained global leadership in mobile communications. We have more 4G LTE subscribers than the rest of the world combined, and we are setting the pace globally on innovation in mobile software, apps, and devices.

This leadership means that we face a particularly acute challenge to meet exploding mobile demand, the "spectrum crunch," and that we must use all policy levers at our disposal to address it. That is why a few months ago at the Commission we freed up 30 megahertz of WCS spectrum for broadband. It is why yesterday we unanimously adopted an order freeing up 40 megahertz of underutilized satellite spectrum for land-based mobile broadband, and a proposal setting the stage for an auction of an additional 10 megahertz, the H block, in 2013. It

is why later today I expect my colleagues and I to approve a proposal to make 100 megahertz of spectrum in the 3.5 gigahertz band available for broadband.

And, of course, Congress recognized the importance of innovative policy solutions to the spectrum crunch in authorizing the Commission to conduct incentive auctions. As a result of this important legislation, landmark legislation, the U.S. will be the first country in the world to conduct incentive auctions.

Of course, our obligation is to implement the legislation in accordance with the statute. With our vote on a notice of proposed rulemaking in September, the Commission launched formal implementation of the new law. Implementation is on track.

Key goals and principles include maximizing the overall amount of spectrum freed up, including by maximizing broadcaster opportunities for participation in the auction; enabling the continued role of a healthy broadcast industry; generating very substantial revenue, including providing funding for FirstNet; driving private investment and innovation and ongoing U.S. leadership in mobile; focusing on the engineering and the economics; engaging with all stakeholders in a transparent process; and doing everything we can to make a complex, multipart process as simple as possible.

In my written testimony, I outline the significant steps taken since enactment of the statute to ensure success. The new incentive auction concept poses a long list of new challenges, but we are focused together on smart solutions.

For example, our proposed wireless band plan for 600 megahertz consists of 5-megahertz building blocks to allow for the greatest amount of flexibility and efficient optimization for the new mobile data world. Specifically, we are anticipating for the first time the possibility that we might have more spectrum for downlinks than uplinks, which in a data world could make sense as compared to the symmetrical uplinks and downlinks in a voice world.

In addition, the notice proposes to free up a significant amount of unlicensed spectrum for Wi-Fi-like uses and other innovations. Both licensed and unlicensed spectrum have contributed to U.S. leadership in mobile. Like auctioned licensed spectrum, unlicensed spectrum has a powerful record of driving innovation, investment, and economic growth -- hundreds of billions of dollars of value creation for our economy and consumers.

Our proposal sets out a balanced approach designed to drive investment innovation for years to come and drive continued U.S. leadership.

We are also engaging broadcasters in a constructive dialogue to meet statutory directives concerning repacking.

We look forward to comments on all of these proposals as well as ways to implement the post-auction transition with minimal consumer disruption and within the timetable set by the law.

To make clear, as we all know, the implementation is now in the notice stage. We put out a concrete proposal designed to generate concrete and efficient response from stakeholders. We will be looking

very carefully at the responses that we get, deciding issues on a record and consistent with the statute.

With that, thank you again for the opportunity to testify, and I look forward to answering your questions.

Mr. Walden. Thank you, Chairman.

[The prepared statement of Mr. Genachowski follows:]

******** INSERT 1-2 ********

Mr. Walden. And just for the record, thank you for thanking my colleagues for coming down to the FCC. As a licensee of the FCC in the broadcast world for 22 years, I made sure to do everything possible to make sure I never had to go before the FCC in person, and so I am glad they went.

We will go to Commissioner McDowell now for your testimony.

STATEMENT OF THE HON. ROBERT M. MCDOWELL

Mr. McDowell. Thank you, Mr. Chairman and Ranking Member Eshoo and all members of the subcommittee. It is terrific to be back here today. Thank you for inviting us.

I share your goals of putting more spectrum into the hands of American consumers while raising funds for the Treasury and a nationwide broadband public safety network.

It is important for all of us remember today that the FCC is at the earliest stages of developing rules to implement Congress's will regarding incentive auctions -- auctions that will literally be the most complex in world history. Initial comments are not even due until next month. We will have to cull through a plethora of ideas and new questions we did not contemplate when we launched the rulemaking last September. And so, consequently, it would be premature for me to offer a final opinion on where the Commission should go with new auction rules until it is time for us to vote on them.

Nonetheless, being the only commissioner before you today who is

also a veteran of two of the largest spectrum auctions in American history, as well as the digital television transition -- seems just like yesterday -- I have learned a lot through trial and error, sometimes more error than anything else. In our conversation today, I hope I can help illuminate a path forward based on past successes and failures.

My entire testimony could be boiled down to one sentence: The FCC should approach these auctions with simplicity, humility, and regulatory restraint. But with almost 4 minutes left, what the heck, I will go on further.

Through intelligently designed band plans and auction and service rules, we could provide opportunities for all stakeholders and potential new entrants to successfully participate in the auctions. Similarly, we should avoid micromanaging the wireless market through unnecessary rules that would deter bidders and reduce auction revenue. The goal of maximizing revenue is especially important here due to the congressional mandate that part of the auction proceeds fund the construction of the new nationwide public safety network.

Furthermore, we should keep in mind that technology advances constantly, and what may seem impossible to achieve today may be routine tomorrow. So let's not underestimate market innovation, or, worse, let's not inadvertently preempt it.

Beyond the spectrum auctions, American policymakers should continue their vigilance against encroachments upon Internet freedom, especially internationally. Chairman Genachowski, as he mentioned,

and I worked together with the rest of the U.S. delegation in Dubai last week, and members of your committee staff, to prevent the International Telecommunication Union from expanding its reach into the Internet's complex ecosystem.

And as the chairman mentioned, right now is a crucial time. Literally, as we sit here, it is nighttime in Dubai. And it is at a crucial intersection, and the next 12 to 24 hours will determine the fate of things. But if we are lucky enough to have Internet freedom escape the WCIT this year, we have to remember there is a much more fundamental negotiation in the year 2016. And there is a big meeting in May that lays the foundation for that. So we should all keep that in mind.

But I would like to thank this committee for its unanimous and bipartisan resolution opposing even the smallest of international encroachments on Internet freedom.

In the meantime, I hope we could all share a New Year's resolution to close the Title II docket at the FCC. Now, my hopes may not be realized, I realize, but ending this proceeding would send a strong signal around the globe that the U.S. opposes subjecting the Internet to late-19th-century industrial policy.

Instead of new regulation in this space, we should revive a concept that I proposed nearly 5 years ago, and that is to use the tried and true multi-stakeholder model to resolve alleged anticompetitive conduct that would threaten the open Internet. Supported by the backstop of existing antitrust and consumer protection laws, the

multi-stakeholder model could spotlight market failures and cure them more quickly and probably more effectively than antiquated telephone laws. If this concept is good enough for us to preach abroad, shouldn't we also practice it at home?

Thank you, and I look forward to your questions, with 46 seconds left on the clock.

Mr. Walden. We will make note of that. Thank you.

[The prepared statement of Mr. McDowell follows:]

******** INSERT 1-3 ********

Mr. Walden. Now we will go to Honorable Commissioner Clyburn.

Thank you for being here today. We appreciate all you do at the Commission. Look forward to your testimony.

STATEMENT OF THE HON. MIGNON L. CLYBURN

Ms. Clyburn. Thank you, Chairman Walden, Ranking Member Eshoo, and distinguished representatives. Good morning. Thank you for the opportunity to discuss the FCC's efforts in implementing the historic legislation you passed earlier this year.

I respectfully request that my full statement be admitted in the record of this proceeding.

Mr. Walden. Without objection.

Ms. Clyburn. Over the past few years, consumer demand for wireless services has increased by startling rates. These realities require that the Nation put in place targeted yet nimble legislative and regulatory policies in order to keep pace.

It is sometimes hard to believe this, but when I first started at the Commission in the summer of 2009, tablet devices had not even been introduced to the U.S. consumer. And now, according to the most recent data for this year, 22 percent of American adults own such a device.

When you consider these statistics, together with the fact that tablets consume 121 times more spectrum than ordinary cellphones, then you realize that two elements of spectrum management have become

critical policy priorities: First, we must find quicker ways to repurpose spectrum for commercial mobile services, and, second, we must promote more efficient uses of spectrum.

Congress understood this when it passed the JOBS Act of 2012. The plain language of the statute makes clear that through a voluntary incentive auction we have the authority to find a quicker tool to reallocate spectrum.

Congress directed that the incentive auction of broadcast television spectrum consist of three major features: a reverse auction, a repacking of the broadcast TV band, and a forward auction. For those broadcast TV licensees who want to continue to use their spectrum to provide services, the Commission must make all reasonable efforts to preserve their coverage area and populations served.

I am pleased to report that the Commission has been moving quickly to implement these statutory directives. Just 2 months after enactment, a unanimous three-member commission released an order that put forth some basic ground rules for the channel-sharing aspects of the incentive auctions.

This past September, the Commission at full complement unanimously adopted a notice of proposed rulemaking on the full range of procedural and technical rules that it could adopt. That notice proposes a band plan with 6 megahertz guard bands that meet the statutory requirement that they are no larger than technically reasonable to prevent harmful interference between licensed services. It seeks comment on the proposal.

I believe it was important for the notice to propose a band plan with an appropriate balance of licensed and unlicensed spectrum. Section 6407 of the act correctly authorizes the Commission to permit the use of such guard bands for unlicensed use.

Unlicensed spectrum has played a critical role in helping the wireless industry use its valuable resource more efficiently. Commercial wireless carriers are increasingly using unlicensed Wi-Fi services to offload their smartphone traffic, resulting in wireless carriers not having to construct an estimated 130,000 cell sites at a savings of more than $25 billion each year.

The unlicensed spectrum proposals in the notice would also encourage development of wireless services that can make effective use of unused spectrum or white spaces in the broadcast TV band.

It is also clear that continued innovation in the unlicensed service industry is important to our national economy. As Representatives Eshoo and Issa pointed out, it is estimated that unlicensed spectrum generates between $16 billion and $37 billion each year for the U.S. economy.

The incentive auction notice also appropriately seeks comment on ways the Commission could design the incentive auction to accomplish all of the funding goals the act, including funds for a national first responder network.

Thank you all for allowing me to make these opening remarks. I look forward to any questions you may have.

Mr. Walden. Commissioner Clyburn, thank you for your testimony.

[The prepared statement of Ms. Clyburn follows:]

******** INSERT 1-4 ********

Mr. Walden. And now we will move to Commissioner Rosenworcel.

Thank you for being here today. We look forward to your comments, as well.

STATEMENT OF THE HON. JESSICA ROSENWORCEL

Ms. Rosenworcel. Good morning, Chairman Walden, Ranking Member Eshoo, and members of the subcommittee. It is an honor to appear before you with my colleagues to discuss our progress in implementing the incentive auction provisions of the Middle Class Tax Relief and Job Creation Act.

The Commission embarked this past September on the complex but critical task of conducting wireless incentive auctions. We must get them right because if we get them right, we will facilitate the voluntary return of spectrum from commercial licensees and promote its efficient reuse. If we get them right, we will ease congestion on our airwaves and expedite the development of new wireless services and applications. And if we get them right, we will drive digital-age innovation, spur job creation, and grow the wireless economy.

But before we get there, it is useful to consider what has come before. For nearly 2 decades, the Commission's path-breaking spectrum auctions have led the world. The agency has held more than 80 auctions, it has issued more than 36,000 licenses, and it has raised more than $50 billion for the United States Treasury. In short, the Commission's auctions have been a model for governments and commercial

wireless providers across the globe.

We are now again poised to be the world's pioneer with incentive auctions. For my part, I believe that there are four principles that should guide us: simplicity, fairness, balance, and public safety.

Simplicity is key. Incentive auctions are undeniably complicated, but at every structural juncture, a bias toward simplicity for participants is crucial. Simplicity will allow the market to work and yield the most favorable participation.

Fairness is essential. Fairness demands that we consider how to accomplish repacking by minimizing unnecessary broadcaster disruption and maximizing the ability of the public to continue to receive free over-the-air television. At the same time, we ask that broadcasters make a fair assessment of the opportunities this auction provides. By offering incentives to share channels and incentives to relocate from the UHF to VHF band, this auction can mean new resources for broadcasters to develop new programming and deploy new services.

Balance is necessary. None of the three legs of the incentive auction -- the reverse action, the repacking, or the forward auction -- can stand on its own. For instance, the interference rules we consider will not only impact broadcast services but also how much spectrum will be available for auction, which in turn will impact the revenues raised. We must also pay attention to the balance between licensed and unlicensed spectrum. The former provides reliability and interference protection; the latter provides low barriers to entry and promotes the efficient use of limited resources. Good spectrum policy

requires both.

Finally, public safety is fundamental. Congress designated auction revenues to support the first nationwide interoperable wireless broadband public safety network. The recent storms in the Northeast have provided a stark reminder of the importance of communications in a disaster. The success of these auctions requires delivering on our promise to America's first responders.

Even with incentive auctions on course, the demand for our airwaves will continue to grow. To meet this demand, efficiency is critical. At the FCC, efficiency means getting all of our auctions done on a clear timeline. For industry, efficiency means squeezing more out of the spectrum already allocated for commercial use. Now is the time to invest in technologies -- geographic, temporal, and cognitive -- that multiply the capacity of our airwaves.

Finally, for the Federal Government, efficiency means finding new approaches that facilitate repurposing of spectrum better than our old three-step process of clearing, relocating, and auctioning. To this end, I believe that it is time to develop a series of incentives to serve as the catalyst for freeing more Federal spectrum for commercial use. What if we were to financially reward Federal authorities for efficient use of their spectrum? If we want to convert more airwaves to commercial use, I believe it is time to work with our government partners so they can realize value from using spectrum efficiently instead of only seeing loss from its reallocation.

It is an exciting time in communications. Incentive auctions

present real challenges, but their smart execution can yield great opportunities.

Thank you for your time. I would be happy to answer any questions you might have.

Mr. Walden. Thank you, Commissioner. We appreciate your testimony.

[The prepared statement of Ms. Rosenworcel follows:]

******** INSERT 1-5 ********

Mr. Walden. We will go now to the final commissioner, Commissioner Pai.

Thank you for being with us today. Look forward to your testimony, sir.

STATEMENT OF THE HON. AJIT PAI

Mr. Pai. Thank you. Chairman Walden, Ranking Member Eshoo, members of the subcommittee, it is a privilege to appear before you today.

The Spectrum Act originated in the efforts of this subcommittee and was the result of bipartisan leadership, hard work, and compromise by you and many other dedicated Members of Congress.

Given the pressing need to make more spectrum available for mobile broadband, the FCC must act promptly to implement the act. Accordingly, this past summer, I called for the FCC to commence the incentive auction rulemaking process in the fall. Chairman Genachowski launched a timely proceeding in September, and I thank him for that.

I thank him, as well, for his recent announcement of the formation of a Technology Transitions Policy Task Force, which will address crucial issues that we will encounter as we undergo the IP transition.

As the Commission moves forward in the incentive auction rulemaking process, I believe that four principles should animate our work:

First, we must be faithful to the statute. It is our job to implement this legislation, not to rewrite it to conform to our own policy preferences.

Second, we must be fair to all stakeholders. This is especially important because the incentive auction will fail unless both broadcasters and wireless carriers choose to participate.

Third, we must keep our rules as simple as possible. The auction will be complicated enough as it is.

Fourth and finally, we need to complete this proceeding within a reasonable time frame. I believe that we should set a deadline for concluding these auctions no later than June 30th of 2014.

Fidelity to these four principles will result in a successful broadcast incentive auction.

That said, I do have some concerns with the direction of our rulemaking proceeding. Most notably, September's notice of proposed rulemaking appears to envision an auction that will yield no net revenues. That would mean no money for the First Responder Network Authority to build out a nationwide interoperable public safety broadband network. That would mean no money for State and local first responders. That would mean no money for public safety research. That would mean no money for deficit reduction. And that would mean no money for Next Generation 911 implementation, even though Spectrum Act specifically mentions each of these items.

Most of the problem, in my view, stems from the structure of the proposed auction. The only closing conditions set forth in the NPRM

is that the revenues from the forward auction cover the costs of the reverse auction. This is essentially like ending a traditional auction as soon as the reserve price is met.

Another part of the problem derives from limits the FCC might place on auction participation. For example, if we start picking and choosing who may participate in the forward auction, that won't be good for anybody. By contrast, maximizing participation in the auction will maximize our net revenues. And as we set up the auction, I hope we take to heart the guidance that we receive from commenters and, importantly, from Congress.

Aside from the broadcast incentive auction, the Spectrum Act sets several additional targets for getting more spectrum to market. For example, I expect in the near future that we will commence a rulemaking proceeding on making available almost 200 megahertz of spectrum for unlicensed use in the 5 gigahertz band.

This is a legal obligation under the Spectrum Act, to be sure, but I am particularly excited about it because it is smart policy. The standard for next-generation Wi-Fi, 802.11ac, already has been developed, and it requires large, contiguous swaths of spectrum for high-capacity, high-speed data transfers. The 5 gigahertz spectrum identified in the Spectrum Act is well-suited for taking advantage of this innovative standard.

The Spectrum Act also directs the FCC to auction off the 2155 to 2180 megahertz band, which is adjacent to AWS-1. The spectrum ideally would be paired with another 25-megahertz block adjacent to AWS-1, the

1755 to 1780 bands. These bands already are internationally harmonized for commercial use, which means a deployment will be swifter and cheaper than other options.

If we auction off the spectrum within the next 2 years, it could raise billions of dollars. With productive collaboration among the FCC, the NTIA, commercial users, and Federal users, we can achieve the twin goals of efficient commercial use and effective Federal use.

In closing, the Spectrum Act gave the FCC some very challenging tasks, but if we accomplish them, our Nation's commercial and public safety communications capabilities will improve dramatically.

Chairman Walden, Ranking Member Eshoo, and members of the subcommittee, I thank you once again for holding this important hearing. I look forward to listening to your views, answering your questions, and continuing to work with you in the weeks, months, and years ahead to implement this landmark legislation.

Mr. Walden. Commissioner, thank you for your testimony.

[The prepared statement of Mr. Pai follows:]

******** INSERT 1-6 ********

Mr. Walden. Thanks to all of you for coming today to testify before our subcommittee.

I would like to put in the record three different letters: one from the Expanding Opportunities for Broadcasters Coalition announcing a coalition of more than 25 broadcasters at this early date who are interested in selling this spectrum in major markets; a letter from the Telecommunications Industry Association supporting efforts to maximize licensed spectrum for mobile broadband; and a letter from the High Tech Spectrum Coalition supporting swift implementation of the spectrum law.

Without objection, they will be in the record.

[The letters follow:]

******** COMMITTEE INSERT ********

Mr. Walden. Commissioners, obviously we have a lot to cover today, and so I have, at least first up, a yes-or-no question. I want to start with Commissioner Pai.

Do you believe the Commission should be ensuring that the auction produces the $7 billion for the public safety network?

Mr. Pai. Mr. Chairman, I do believe that the Commission should focus on maximizing revenue to fund the public safety network.

Mr. Walden. Commissioner Rosenworcel?

Ms. Rosenworcel. Yes, absolutely. We need to deliver on our promise to our Nation's first responders.

Mr. Walden. Commissioner Clyburn?

Ms. Clyburn. Absolutely, it should.

Mr. Walden. Commissioner McDowell?

Mr. McDowell. Yes.

Mr. Walden. Chairman Genachowski?

Mr. Genachowski. Yes.

Mr. Walden. Thank you.

Now I would like to put a slide up here and draw everyone's attention to it and ask unanimous consent to include it in the record.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Walden. As the chart they are about to put up will show you, the FCC may be forgoing as much as $19 billion, potentially, with its guard band and unlicensed proposal. I believe you all have copies of this before you.

Commissioner Pai, before the FCC nets a single penny for public safety, it has to pay broadcasters that relinquish spectrum and reimburse stations it relocates. We can't know in advance how much that will cost, nor do we know how much spectrum broadcasters will relinquish or how much that spectrum will sell for.

In light of these unknowns, are you comfortable forgoing even a single dollar of potential revenue?

Mr. Pai. I am not, Mr. Chairman. And that is precisely one of the reasons why in my separate statement on September 28th when we adopted the notice of proposed rulemaking I expressed my concern that the closing condition did not appear to envision a circumstance in which the auction would yield net revenues.

That is why I proposed asking questions; for example, should we go beyond the contemplated structure of the auction, which at this point, as I understand it, seems to say that the forward auction will close once there is sufficient revenues to pay bidders in the reverse auction, to pay for reimbursable costs under the Spectrum Act, and to pay for the administrative costs of administering the auction.

So I share that concern. And I believe that the closing condition that we ultimately do adopt should be structured in such a way to maximize net revenue, precisely for this reason that you identify.

Mr. Walden. For those who may not be able to see the slide up there, what it shows is the spectrum that is available for auction in blue. That doesn't mean it is all going to be auctioned or that there are going to be that many stations that come forward and give up their licenses. But that, in theory, is what could be available. And then in red is channel 37. And then yellow is the reminder, and green is guard band.

Now, obviously, you are going to need some guard bands. And, obviously, some of that won't be auctionable and all of that. But I want to put in perspective that even at a conservative dollar per megahertz pop, the FCC's plan could forgo over $7 billion gross. And that would be enough, if it were net, to fully fund FirstNet.

These are big numbers we are talking about. These are programs that the Congress has already said need to be funded through this auction. And we have also allocated -- some of the other net revenues from the proposed auction have already been spent to extend the middle-class tax cut and to extend unemployment benefits. Paying for all of that was part of the big compromise that got this into law.

My concern is that if we take spectrum off the table from auction right off the top, there won't be the revenues, potentially, to pay for the things we have already committed to, and it ends up going out there in the unlicensed world.

Commissioner McDowell?

Mr. McDowell. Real quick, Mr. Chairman. Actually, looking at this chart, just for right now, the assumptions actually could be very

generous. So you have here about 55 megahertz, the assumption that the broadcasters will actually be able to yield. I am a little skeptical that they will actually be able to yield that much for that auction. And I hope I am wrong. I will be the happiest person on Earth if I am wrong about this. But I am skeptical that it will be that much.

So this is the variable portion, the how much can be auctioned. The fixed portion is already here. As you said, there is a minimum amount of 12 megahertz for guard bands, and then you have the 6 for the channel 37, and then the remainder. So this is the fixed portion.

And so I wanted just to point that out, that that is a guaranteed amount that wouldn't be auctioned. What will be auctioned is not guaranteed. We don't know; there are a lot of assumptions there.

Then, lastly, at a dollar per megahertz pop, in the 700 megahertz auction of 2008 the A and the B blocks, which were the least encumbered, went for about $2.70 per megahertz pop, in some cases.

Mr. Walden. So this could be worth two to three times what we are showing.

Mr. McDowell. Exactly.

Mr. Walden. So it could be a figure of $14 billion or --

Mr. McDowell. Fourteen, 16, something like that.

Mr. Walden. Now we are talking a lot of money.

Mr. McDowell. Even in Washington.

Mr. Walden. Even in Washington. And I think that is the issue here. And I know we are having a debate about how much should be available for unlicensed. I know there is other unlicensed at the

5-gig level and others that are being put forward. And I know we have some disagreement within our subcommittee about what the statute says or doesn't say. And we will get to that a little later, I think.

I will recognize the gentlewoman from California, Ms. Eshoo, for 5 minutes.

Ms. Eshoo. Thank you, Mr. Chairman. I hope that we will have another round because there really are a lot of questions that need to be asked.

First of all, I am troubled by some of the claims that the Public Safety and Spectrum Act is all about revenue-raising. The last time I checked, this is the Energy and Commerce Committee, not the Budget Committee. Having said that, I think that we did a good job to bring about a balance, to bring about dollars that would fund the public safety network, that we would produce dollars for deficit reduction.

But, again, this is the Energy and Commerce Committee. In Section 309 of the Communications Act, it explicitly prohibits the FCC from basing its auction rules predominantly on the revenue that would be generated. And during the bipartisan negotiations on this bill, a compromise was reached to allow unlicensed services to operate in the guard bands that would be created as a part of the band plan which would not be auctioned. The CBO looked at the proposal that became law and concluded that the guard band concept does not decrease the revenue.

So I don't know where all of this is coming from. I think it is kind of interesting. But it seems to me that, again, the hearing today

is "Keeping the New Broadband Spectrum Law on Track."

Now, I want to start with the chairman.

Mr. Chairman, the Commission, I know, is currently -- this is a little off to something else, but I am still very curious about it because I think it is so important. The Commission is currently undergoing a review of its media ownership rules. And while I recognize that no agreement has been reached within the agency, I would like to know what is being done to respond to the Third Circuit's instructions to address ownership and the viewpoint of diversity.

If you could just be brief, because I have a whole bunch of questions and I have got --

Mr. Genachowski. Just briefly, diversity remains a core obligation of the Commission, something that we care about deeply and have been focused on.

We have overhauled our data collection on broadcast ownership so that we finally are getting accurate information about minority ownership. We have a major study under way right now looking at the issues that are required in this area in order to support legal action. And we have requested funding in 2013 for additional studies to do the work that we need to do over time.

As you know, the quadrennial reviews that we have to undergo -- the one we are looking at now is a 2010 review that started in 2009 -- they continue on an ongoing basis. It is time to get the one before us done. But, of course, we will then move on to the next one and continue to look at diversity as a central objective of the

Commission.

RPTS BLAZEJEWSKI

DCMN BURRELL

[11:05 a.m.]

Ms. Eshoo. Well, I think on this whole subject matter of media and consolidation that there should be an underlying principle that in a democracy that there be as many voices to the many as possible. I mean, this goes to the heart of democracy. This is not just something to fiddle around with, and so I just wanted to put that out there.

Now, to the Chairman again, some have argued that the FCC's proposal on unlicensed represents an unlawful give away. How do you respond to that?

Mr. Genachowski. Well, one, I think as you said, the statute clearly gives the Commission the authority to do unlicensed in guard bands, and I would add one point to the one you made before, which is that any economic value analysis of spectrum methods I would think would have to look at the hundreds of billions of economic value and related tax revenue that have come from innovations on unlicensed platforms. So when the FCC authorized unlicensed use for the first time, no one predicted Wi-Fi.

Ms. Eshoo. No.

Mr. Genachowski. It was a new platform for innovation that together with licensed spectrum has now made us the global leader. When I talk to my counterparts overseas, they are very focused on the opportunities of mobile, they are looking at next generation

unlicensed, and I think if we don't lean into this we run the risk of falling behind other countries, seeing innovations happen overseas and not here. Of course, we will operate within the confines of the statute, which I know that both sides of the aisle very carefully constructed.

Ms. Eshoo. Thank you. To Commissioner Clyburn, on the issue of bidder eligibility, do you believe that consumers would be harmed if the incentive auctions freed up the spectrum that was only acquired by the two largest wireless companies?

Ms. Clyburn. I believe that the FCC should keep in mind as we craft these rules what one of the core missions of this agency is, which is competition, and I believe that we should, again, craft these rules to ensure that the framework and the environment would promote such, promote competition. It is good for innovation, it is good for the investment, and so it has got to be, we have got to look at it in a broad framework but never forgetting our mandate to provide, to stimulate competition.

Ms. Eshoo. Thank you. And to Commissioner Rosenworcel, it is wonderful to see you and hear your testimony. We have heard the suggestion today that auction rules that promote competition could result in lower auction revenues, but isn't it also true that allowing one or two firms to effectively shut out other competing bids could result in less revenue?

Ms. Rosenworcel. I think that that is possibly true, but I think fundamentally we need to hold these auctions in a way where there are

opportunities for everyone. That will include incumbents and new entrants, and ultimately we need to make sure that the revenues we raise are sufficient to support the first responder network authority.

Ms. Eshoo. So two bookends, money and real competition. Terrific.

I yield back.

Mr. Walden. The gentlelady's time has expired. The chairman will recognize the vice chairman of the subcommittee, Mr. Terry of Nebraska, for 5 minutes.

Mr. Terry. Thank you. We will go with the Chairman on this one. I think we all believe the auction should happen as soon as possible but of course getting the rules correct, but broadcasters have expressed concern about the folks who will lose a signal if broadcast contours change from repacking.

What is the Commission doing to address this concern, number one? Is there a further NPR, notice of proposed rulemaking, that will delay the process too much and is there an alternative approach to addressing this issue?

Mr. Genachowski. Well, in the statute Congress addressed this issue and laid out guidelines that the Commission has to follow in repacking. Those issues were teed up in the notice of proposed rulemaking. We expect comments on that and be in a position to make a decision. Meanwhile, we are engaging in direct dialogue through workshops and webinars and other ways to engage directly with broadcasters, both broadcasters who like the one Chairman Walden

mentioned who are looking at participating and also the ones who aren't and are therefore focused on repacking.

Mr. Terry. Appreciate that. Now, following up on the gentlelady from California's theme, I am going to move to Commissioners McDowell and Clyburn on this one.

Many commenters have argued that there should be no spectrum cap. Do you think the current spectrum screen with the safe harbor of one-third of the total spectrum in the local market is sufficient to protect consumers and create more competition? McDowell first.

Mr. McDowell. I do, and I expressed my concern when we launched our spectrum aggregation NPRM about reverting back to the days of the hard spectrum cap. It might be under a different name or have a different way of approaching it, but spectrum is a lot like real estate, and so you have to look at each transaction on its own unique case-by-case characteristics, and what was considered, what were considered apples and oranges in terms of different frequencies a few years ago today is no longer the case. LTE is being built out above two gigahertz as well as below one gigahertz, for instance, and so the same services are being built in frequencies that just a few years ago were thought to be very different in their propagation characteristics, as it is called in the business. So I think we need to be very careful about where that proceeding could go.

Ms. Clyburn. And one of the things that I keep in mind, and I go back to the competitive landscape which is optimal for us, and we need to keep that in front of our mind as we craft policies. Also in

terms of the spectral aggregation currently, we have not looked at that proceeding. There has been no reform or no adjustments since 2003. So I think the time is right for us to look at the policies, current policies. There have been a lot of changes in the environment and also, again, keep in front of mind what our goal is to have a competitive landscape and the benefits of that, and so all of the -- I have an open mind as it relates to this, and I think that is healthy.

Mr. Terry. So you think that the screen may not be conducive as much as you would like for competition, and so we need to look at that again?

Ms. Clyburn. A lot has changed since 2003 since that last review.

Mr. Terry. And then our new commissioners, Rosenworcel, what would you think, and then Mr. Pai.

Ms. Rosenworcel. Arguably our existing spectrum screen has a certain lack of clarity to it, so I think it is a good thing that the agency has opened up a proceeding to talk about that. At the same time, technology evolves, and we are finding that spectrum in the two gigahertz range, for instance, is now viable for mobile broadband use, so I do have some concern that if we put rigid requirements in place, they may not respect the way that technology evolves.

Mr. Pai. Congressman, I agree with my colleagues. In particular I agree with Congressman Clyburn that the time is right to revisit this framework in light of some of the deficiencies identified when we kicked off this notice of proposed rulemaking, notably, number one, our current approach understates competition in the market because

it takes out of the spectrum equation certain spectrum that, as my colleagues McDowell and Rosenworcel pointed out, are in fact used for 4G service, like the broadband radio service, the educational broadband service. Number two, our current approach also creates needless uncertainty because parties, since this is a case-by-case basis, if they don't know ex ante how the Commission is going to approach their particular spectrum holdings. So for those two reasons I think the time is right to revisit the screen, mindful of the fact that we need to preserve what is right, and in my current view the current screen does a good job of that.

Mr. Walden. The gentleman's time has expired. The chair recognizes the gentleman from California, Mr. Waxman, for 5 minutes.

Mr. Waxman. Thank you, Mr. Chairman. We had our differences on this committee and with the Senate, and we finally reached a compromise, and we settled by agreeing to allow the FCC to utilize guard bands that might allow both unlicensed and licensed uses to flourish. We understood this to be a good compromise that showed unlicensed and licensed uses did not have to be mutually exclusive. Unfortunately, some are now suggesting that the FCC's proposal to create the guard bands contemplated in the legislation is an unlawful giveaway.

Chairman Genachowski, do you think we have to decide between the licensed or unlicensed model? Is there an opportunity to create a band plan that includes both?

Mr. Genachowski. No, I don't think we have to make that decision. And, yes, there is the opportunity to create a balanced band plan that

uses both licensed and unlicensed and maximizes the economic value created for the country.

Mr. Waxman. Some have expressed concern about guard bands that are too big or not technically reasonable. How will the FCC determine the appropriate size for any guard bands?

Mr. Genachowski. Well, on a record, based on the engineering and input that we get, we made a proposal that is based on our expert staff, our engineers and the work that they did, which we believe in the first instance is technically reasonable, and we will consider all the comments that come in.

Mr. Waxman. Why do you think that start-ups, innovators, technology companies, many of which populate Miss Eshoo's district and my district, care so much about unlicensed spectrum? I have heard from the cable industry that it is critical spectrum located in the television bands be made available for unlicensed use.

Mr. Genachowski. Because it is an extraordinary platform for innovation. It has been proven to be that. When it was first done 20, 30 years ago it was a theory. Now we know, and we have a choice now, do we expand on this good idea or do we let other countries do it before us? The innovation will go to whichever country builds the most robust licensed and unlicensed spectrum infrastructure.

Mr. Waxman. And how do you explain the cable industry support that what you are trying to do with regard to making sure there is an unlicensed spectrum available in the broadcast band?

Mr. Genachowski. Well, they, too, have been innovating in the

area, taking, looking at unlicensed and using it to provide alternative broadband access to consumers. Innovation can come from tiny start-ups in Silicon Valley or larger companies. We want to maximize all innovation.

Mr. Waxman. You gave a speech several months ago at Wharton in which you suggested there is a war on Wi-Fi. What did you mean by that?

Mr. Genachowski. Well, I think I asked why anyone would want to launch a war on Wi-Fi, and it is really the reasons that we are talking about. This has been such a productive, beneficial policy innovation for the country. My view is that we should lean into it consistent with the statute and anticipate that American innovators will take advantage of new platforms for innovation and invent things that we can't even imagine now.

Mr. Waxman. Thank you for that clarification. This is an important provision. It was very important to people on this committee, and the compromise I thought was a good one to allow this kind of innovation to be able to go forward.

Commissioner Rosenworcel, how will the adoption of Next Generation 911 benefit American citizens and first responders, and do you believe this is an important component of the FCC's public safety mission?

Ms. Rosenworcel. Yes. I think the first --

Mr. Waxman. Your mike.

Ms. Rosenworcel. Yes. I think the first duty of the public servant is the public safety, but that is not just my opinion, it is

the law, it is right there in the first sentence of the Communications Act. Next Generation 911 is going to improve all of our safety. In the future we will have a world where every call into our 911 centers may be accompanied by videos, photographs, and your medical records. It can make us all safer.

But the challenge is getting from here to there, and that is going to take three things. First, it is going to take technical standards. The FCC is at work on that with our public safety colleagues. Second, it is going to take a lot of coordination. The agency will need to work with the more than 6,000 public safety answering points around this country as well as carriers to produce that kind of outcome. And, finally, it is going to take funding, and to that end I would note that in the Middle Class Tax Relief and Job Creation Act as a result of the work of this committee, there is up to $115 million in grant funds available for Next Generation 911. That is a terrific resource, and it is my hope that the public safety answering points from around this country will benefit from that.

Mr. Waxman. Thank you. And Commissioner Clyburn, if I could squeeze in a question to you, you have been an advocate for wireless consumers and the importance of competition. As more Americans, especially economically vulnerable populations, rely exclusively on wireless service, do you believe consumers will benefit if the FCC exercises authority to promote wireless competition in the upcoming incentive auctions?

Ms. Clyburn. Absolutely. Competition, when the markets are

healthy and robust, there are more opportunities, you know more options, and that is good, especially for lower income consumers. There is not a one-size-fits-all, I don't take a one-size-fits-all from a regulatory standpoint, and I believe that I should help promote that in the market, in the competitive market standing in that framework.

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

Mr. Walden. The gentleman's time has expired. The chair will recognize the gentleman from Illinois, Mr. Shimkus, for 5 minutes.

Mr. Shimkus. Thank you, Mr. Chairman, and welcome to the commissioners. First let me mention how pleased I am that we are working collaboratively with the industry on the text 911 issue. You know, that is what kids use today. They move way quicker than we do, and if the reports that I am reading are true, then I like what is going on, and that is what we would hope, that we would be working with regulators and the industry to resolve an identifiable need, so kudos, congratulations, and I would say keep it up.

Obviously the goal of this was to do two things. One was to have spectrum available and also try to help fund this, and that is kind of where this debate is going, and being part of kind of what Anna said, you know, it is keeping the new broadband spectrum law on track and kind of like an oversight hearing, and a lot of us are asking questions that pertain to that.

I was also -- Chairman, I was appreciating this because when we talk about the guard bands it just raises the historical aspect of LightSquared, and for me I had great hopes that LightSquared would

provide Wi-Fi to rural small town America, but -- and I like GPS, we all use it, but I think they cybersquatted on spectrum that wasn't there. There was no band, there was nothing there to protect the spillover, and we lost this great opportunity for rural America to really have high speed Internet access, and so I think that is part of this debate of how much is too much, where is the band, so we don't have encroachment but we also get full compensation. Is that kind of the debate that we are having you think? Chairman?

Mr. Genachowski. Well, I think the discussion about how to get this exciting new opportunity right is the one that we are having. The incentive auction law was a landmark piece of legislation. It involved a lot of people, and the obligation is now on us consistent with the statute to get the balance right and to do something that drives U.S. leadership in mobile, that raises very substantial revenues for the Treasury, and that drives private investment and innovation, including through things like unlicensed which the statute anticipated in guard band.

Mr. Shimkus. Well, and part of the legislation was to make sure we had the funds available also to deploy, and because part of that debate was, you know, some people are saying, well, if there is not enough money, we will just go back to Congress and they will give us more, and we are just not in that world today. We are expecting it to come through this process.

Mr. Genachowski. There is one piece here that I look forward to working with the committee on, which was the channel 37 piece on this

chart. I think we share your interest in freeing that up for auction, and as we looked at it in our notice process, we saw a much higher amount of actual use than we would like, and the congressional authorization for the amount to clear that spectrum at 300 million we believe at this stage won't be enough, and this is an area where I do think we can work together on a bipartisan basis, perhaps clear channel 37, and I hope that is an area that we can follow up together because it is a way to get more licensed spectrum up for auction and also move forward on unlicensed. Look forward to working with you on that.

Mr. Shimkus. Well, that would be an interesting process because of the full deployment in that channel and what it does. It is almost like moving military spectrum.

Mr. Genachowski. That is why we haven't proposed auctioning it. Other things on this chart really aren't reversible decisions if that is true.

Mr. Shimkus. Right. So let me end with a question to Commissioner Rosenworcel and Commissioner Pai. There has always been a large debate, we have never really moved on it, on just restructuring, reorganizing it, you are relatively new. Having observed the process in the short amount of time you have been there, what are your thoughts about how we can really move the Commission from the copper wire era to today and what would restructuring look like?

I have a minute left, so if you could kind of split that time, that would be helpful.

Ms. Rosenworcel. Well, I think in part you are referring to the

task force that the chairman just put in place, which I think is a very good idea.

Mr. Shimkus. Your ideas.

Ms. Rosenworcel. All right. So I will say that years ago we used to all exist with a wire line, copper line into our houses. The networks we use today are far more diverse. One-third of our households only have wireless phones. We have probably about 30- to 40,000 VoIP lines out there.

Mr. Shimkus. So how do we reform the Commission? I mean, I am trying -- we know that. I mean, so how do we reform the Commission?

Ms. Rosenworcel. Well, I think part of reforming the Commission is understanding the communications networks that are actually out there today and making sure that the Commission's structure reflects those networks, and so we do have concerns about how we look at this as a matter of silos today, where we treat cable differently than we treat traditional wire line architecture, different than we might treat wireless or broadband, and harmonizing across those platforms to reflect the way we use networks today would be a good idea.

Mr. Shimkus. Chairman, 30 seconds for Mr. Pai without objection.

Mr. Pai. Just to add to my colleague's answer, I think there are two basic questions as we undergo the IP transition that we need to be mindful of. Number one, what role, if any, should the economic regulation of the copper era have in a world of IP? In my view it should have relatively little to the extent that those types of regulations no longer make sense in a competitive all-IP world where we have

convergence across different platforms. Then there is the question of are there any particular social goals that we should try to achieve in the all-IP world that we think are important? For example, when somebody calls 911, should it matter whether they are calling on a land line telephone, on a wireless phone or on a VoIP application? So those two basic questions, the economic and the social goals of regulation in the IP world, are going to be central challenges for the Commission, and that is part of the reason why I am glad that the Chairman announced the task force which I first called for in July because I think this really is the biggest challenge that we face at the FCC, how do we approach the all-IP world.

Mr. Walden. The gentleman's time has expired. We now recognize the chairman emeritus of the committee, the honorable gentleman from Michigan, Mr. Dingell, for 5 minutes.

Mr. Dingell. Thank you, Mr. Chairman. My commendations for this hearing. We need to do what we are doing, and I commend you for that. These questions will be yes or no. First to Chairman Genachowski.

Mr. Chairman, section 6403(b) of the Spectrum Act requires the Commission to coordinate with Canada and Mexico when authorizing the reassignment and reallocation of broadcast frequencies. Is that correct?

Mr. Genachowski. Yes.

Mr. Dingell. Mr. Chairman, I would note that similar such coordination took place for the DTV transition and that it took a very

long time. Is that correct?

Mr. Genachowski. Yes.

Mr. Dingell. Mr. Chairman, will the Commission commit to negotiating new arrangements with the State Department, Canada, and Mexico as mentioned in paragraph 34 of the Commission's notice of proposed rulemaking before repacking broadcast frequencies? Yes or no?

Mr. Genachowski. I am not sure of that provision, but we are committed to working with Canada and Mexico.

Mr. Dingell. Is that a yes or no?

Mr. Genachowski. I would have to look at that provision to give an accurate answer.

Mr. Dingell. The law requires you to do it.

Mr. Genachowski. We will comply with the law.

Mr. Dingell. I hope so. Mr. Chairman, section 6403(b)(2) of the Spectrum Act requires the Commission to, quote, make all reasonable efforts to preserve as of the date of the enactment of this act the coverage area and population served of each broadcast licensee as determined using the methodology described in OET Bulletin 69 of the Office of Engineering and Technology. Does the Commission intend to define explicitly what such reasonable efforts will constitute? Yes or no.

Mr. Genachowski. Yes, as part of our decision.

Mr. Dingell. Mr. Chairman, does the Commission expect to have defined such reasonable efforts? Yes or no.

Mr. Genachowski. Yes, as part of our decision.

Mr. Dingell. Mr. Chairman, paragraph 49 of the NPRM states, quote, the allotment optimization model may have limited or no applicability to this proceeding. The Commission states in paragraph 50 that, quote, it expects interested parties will have an opportunity for meaningful comment on all specific repacking methodologies it is considering before it makes a decision, close quote.

Does the Commission publicly commit to sharing with the public the repacking methodology it adopts as well as the variables and other inputs it may use to predict repacking results? Yes or no.

Mr. Genachowski. Yes.

Mr. Dingell. That is a big question. I had a hard time getting it out. I am sure you added your share of difficulty to it, Mr. Chairman.

Mr. Chairman, I note the Commission has had a proceeding pending on its spectrum screen since September of this year. Does the Commission intend to complete this proceeding before releasing rules for the voluntary incentive auction authorized by the Spectrum Act? Yes or no.

Mr. Genachowski. Yes, that is our plan.

Mr. Dingell. Mr. Chairman, on a related note, does the Commission intend to use its authority under section 309(j) of the Communications Act to ensure broad participation in the voluntary incentive auction authorized by the Spectrum Act? Yes or no.

Mr. Genachowski. Yes.

Mr. Dingell. Mr. Chairman, the Commission released a technical paper by the staff in 2010 which concludes that an additional 275 megahertz of licensed spectrum will need to be cleared in order to meet rising consumer demand for mobile broadband. Does the Commission believe that it can achieve that goal? Yes or no.

Mr. Genachowski. Yes.

Mr. Dingell. Mr. Chairman, other than incentive auctions, how does the committee intend to meet that goal?

Mr. Genachowski. Well, by freeing up spectrum through removing regulatory barriers, like we did just yesterday and also a few weeks ago with WCS, by recovering more spectrum from the government through spectrum sharing approaches, through clearing and reallocating government spectrum, and through unlicensed spectrum.

Mr. Dingell. Mr. Chairman, thank you.

We in the border States are very much concerned about what could or will happen to us in this process, losing service, seeing stations go dark, seeing additional confusion and conflict with our neighbors to the north and south. I hope you will keep that in mind as you go forward.

Mr. Chairman, I ask your kindness in just one thing, and that is to commend Commissioner Clyburn for her work on prison calling petitions before the Commission. I appreciate the progress the Commission has made on these petitions and encourage the Commission to resolve these matters as expeditiously as possible.

Mr. Chairman, members of the Commission, thank you for your

courtesy to the committee today.

Mr. Terry. [Presiding.] Thank you, Mr. Dingell. Mr. Barton, you are recognized.

Mr. Barton. Thank you, Mr. Chairman. I am tempted to yield back to Mr. Dingell just to let him continue asking his yes or no questions. Sooner or later he will get to one that they can't answer.

But Chairman Dingell did ask a question that I am going to put a little bit different slant on. He referred to that part of the H.R. 3630, the new law, that the Commission in making these reassignment or reallocations shall make every effort, every reasonable effort to preserve the existing population and coverage area for each broadcast licensee.

Over on the next page, on page 72, subparagraph 5, with regard to low power television usage, it says nothing in the subsection shall be construed to alter the spectrum usage rights of low power television stations, yet in the FCC PowerPoint presentation in response to the question can low power television participate in a reverse auction, the answer to that is no. I understand that part of it. It says low power television services have only secondary interference protection and must make way for full power and class A TV stations assigned to new channels. I understand that. But then they go on to say that they have to promote -- they may be required to go to a different technology, MVPD systems, and/or the Internet.

I can't speak for the entire committee obviously or even the subcommittee, but I can speak for myself, who has been a member of the

subcommittee and who supported the enactment. I didn't envision that we would have the end result that a low power television station would simply end up off the air, and so I would like to ask the Chairman and the other commissioners if, in fact, you are willing to commit that low power television stations that have acted in good faith, they understand that they may have to move or be repacked, but I personally believe it is not fair at all that the end result is that a low power television station that has been a good licensee ends up totally off the air.

Mr. Genachowski. Well, these are questions that we asked in our notice. Congress did not change the status of the low power stations, and so they remain secondary services. Many, as you point out, provide valuable programming in their communities. Our job is a hard one, which is how do we free -- maximize the spectrum that we free up, generate revenue for the Treasury and for FirstNet and also address the issues you are raising, which are the number of LPTV stations around the country that are providing valuable programming. It is a difficult question which we have not answered yet. We look forward to working with you and getting very robust input from stakeholders as part of our process.

Mr. Barton. But can we agree, and again the low power television stations understand that they are secondary, they understand under current law that they provide service only if it doesn't interfere and that as the full power stations and the class A stations operate they have to work around them. They understand that they don't have the

right to participate in this auction. The one thing that they are not willing to agree to is that they can be just kicked out of business, kicked off the air, and that is that.

Can we agree as a committee and as the Commission that we are going to take steps to make sure that if a low power station has operated in good faith and complied with its existing license that we will make an effort to keep them on the air? Not necessarily on the same channel and the same, but at least in the same market.

Mr. Genachowski. We will work with the LPTV community. We have an obligation, as has come up a number of times, to act within the statute. Certainly keeping LPTV stations on the air where we can is something that makes sense, but I think at this point we haven't made a proposal on this. We have an obligation to listen to the record, act consistent with the statute, and we will continue to work with you and the other members of the committee and the LPTV community to ultimately reach the goals of the statute, some of which, as you point out, are in tension with each other.

Mr. Barton. Can I ask the newest commissioner, Mr. Pai, do you believe that the current reverse auction, forward auction simultaneous system that has been outlined is really workable?

Mr. Pai. It is certainly a novel construction which is necessary since the entire incentive auction process presents questions; a first impression, as Congresswoman Eshoo pointed out in her opening statement. I think the simultaneous auction has the advantage, as the NPRM points out, of certainty in real time as to what spectrum will

be available, but there are obviously some complications. Participants in the reverse auction aren't necessarily well versed in auction processes, and they might not know, you know, exactly what the nature of the auction is going to hold for them. On the forward side, the bidders might not know what spectrum they are bidding on which inhibits, obviously, their ability to form a coherent strategy.

So there are going to be some challenges there, and I am hopeful that in the NPRM process that commenters will give us a wide range of perspectives that will allow us to understand whether the simultaneous approach is the best one.

Mr. Barton. Well, I would encourage the Commission and the staff and the members of this committee to keep an open mind on this because we have conflicting goals. We want to maximize revenue for deficit reduction, we want to maximize reallocation of spectrum for new uses, and we want to preserve the rights of the existing licensees that don't wish to participate in the auction. When you put that all together, it is very difficult to come up with a system that actually makes sense, and I would hope you all keep an open mind on how to do that.

With that, Mr. Chairman, I would yield back.

Mr. Terry. Thank you, Mr. Barton. The chair recognizes the gentleman from Massachusetts, Mr. Markey, for his 5 minutes.

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

Mr. Chairman, could you help us to frame this tension that exists under existing law? That is, that what we are trying to do is to make new spectrum available for the wireless revolution while at the same

time ensuring that broadcasters are protected, that they only have to act voluntarily, but that there is proper protection against interference. So what is the process that you have established that telescopes the time frame to ensure that that issue is resolved and done so in a way that meets all the technical requirements but forces the parties who sometimes have a stake in just, you know, waiting until eternity to finally just get to the point where they accept the reality of the technology?

Mr. Genachowski. Two points briefly. One, on the time frame, this is why we moved so quickly to start the NPRM. We have announced that we intend to hold an auction in 2014, and we will drive this step by step to a conclusion.

The second point, on the framing, what many people don't realize is that in many major markets, most major markets in the U.S. today there are many more over-the-air TV licensees than people realize. In New York, where I am from, the number is 28. And there were, there was a large allocation of these licenses before cable and satellite, and what we are doing now, and this is I think the innovation of incentive auctions, is to say, how can we use market mechanisms to reallocate some of that spectrum to mobile broadband in a win-win way? And that is what we are doing. That is why there will be broadcasters who remain in markets like New York and others that are healthy, indeed stronger, but there is also tremendous opportunity to free up spectrum to generate revenue and to promote innovation.

Mr. Markey. When we moved over the 200 megahertz out of this

committee in 1993, we had a two-star general sit here and say you just can't do it, it is just absolutely technologically impossible to do. So, again, do you have a process that is totally fair to the broadcasters and to the wireless industry that is in place? Have you had them in your office simultaneously with their engineers to talk about the issues so that you can hear and your experts can hear the differences which they have?

Mr. Genachowski. That is exactly what we are doing. Through the notice and comment process, also through the workshops, also through direct engagement with our engineers, that is what I have said to both industries, which is get your engineers working because we will resolve these largely as engineering issues consistent with the economic and innovation goals of the statute.

Mr. Markey. Do you ever have a meeting yourself with the engineers in the room, with the other, you know, from all industries just sitting there with your engineers hearing the disagreements?

Mr. Genachowski. I very much enjoy meeting with engineers and business executives, and I won't express an opinion on what is fun to meet with.

Mr. Markey. Okay. No, I appreciate that. Let me just say last year The Economist magazine predicted, this is hyperbolically I think, The Economist predicted that the expected economic benefits of unlicensed spectrum alongside finding a crack in the code for curing cancer would be amongst the most significant developments expected in 2012. Do you agree with that?

Mr. Genachowski. Yes, I do. I don't know about the 2012 piece, so I would have to think about that, but as I said before, the Wi-Fi was not an expected innovation from unlicensed policy when it was first done, and I think there is every reason now to expect that we will get unexpected innovations in the future from a new platform for innovation.

Mr. Markey. And we had a hearing in this committee just a couple of weeks ago where one of the FCC's top engineers testified that advances in technology are not likely to obviate the need for guard bands anytime soon.

Do you believe that the FCC should put licensed spectrum at risk for interference by reducing the size of the guard bands?

Mr. Genachowski. Until we can change the law of physics and eliminate the possibility of interference, we are going to have to have guard bands.

Mr. Markey. And so, again, is there a process that gives people deadlines in terms of resolving these technical issues? Because we are congressional experts, which is an oxymoron compared to real experts, and when you put engineers in a room, we have to just remain silent and listen. So that is, to us, it seems to me, the real question, how timely are the deadlines given here to resolve these issues because I think it is almost like a homework assignment, you know. You have got a deadline, you have got to get that answer, and then we will find a tie breaker to make a judgment as to who is right and who is wrong, and I don't know what exactly the timelines are here, but it just seems

to me that the economic benefits are so overwhelming, while the risks actually to the broadcasting industry could be great, but to resolve it in a way that benefits the American people and these industries.

Mr. Genachowski. So that is a fair question. If I could answer it briefly. Comments in response to our notice are due, I believe, in January, with replies due shortly after that. At my level, the commissioner level, and the staff level, we have been encouraging all the industries to give us their best engineering and to do the hard work to put us in a position. From there, as we have in past proceedings, we will move forward in exactly the direction that you are suggesting, which is getting engineers together from the different industries and sitting there until we get answers and we will have a timetable, and we will drive it to conclusion. It won't be the first time we have done that.

Mr. Markey. Yes, because just as an engineering final exam, it is win-win for broadcasters and for wireless. That is just one of the exams scheduled, to make sure that we just resolve it in a timely fashion.

Thank you, Mr. Chairman.

Mr. Terry. Thank you, Mr. Markey. At this time the chair will recognize the gentlelady from Tennessee, Ms. Blackburn.

Mrs. Blackburn. Thank you, Mr. Chairman. Commissioner McDowell referenced the Title II proceedings in light of the WCIT conference in Dubai. So Chairman Genachowski, why is that title, Title II still open?

Mr. Genachowski. Well, it is common to have notices of inquiry stay open where there is public interest and commenting, as there have been here. We don't see any uncertainty being created by that proceeding. The sector is actually quite strong, investment and innovation are going up. To the extent there is any uncertainty, it is coming from the Verizon litigation. As I have done before, I would call on Verizon to withdraw its litigation. That would increase certainty and allow us all to move forward.

Mrs. Blackburn. Well, have you had any discussions with the other commissioners? Chairman, Commissioner McDowell, do you want to weigh in on that?

Mr. McDowell. Real quick, I would respectfully disagree with what the Chairman just said. Actually when I speak with Wall Street analysts, that is one of the first questions I get is what is the future of that Title II docket. At the time that it was first floated in the summer of 2010 there was an incredible amount of anxiety expressed from the investment community over that docket. It frequently comes up in conversations that I have with our international counterparts and diplomats internationally. So I think it does create uncertainty, and the litigation against the order regarding the regulation of Internet network management actually I don't think is creating the uncertainty. The uncertainty was started by the FCC in this space. There was no evidence of any market failure for the FCC to address at all to begin with.

Mrs. Blackburn. I had an entrepreneur tell me this week that they

are distressed that so many Federal agencies are trying to solve problems that don't exist, and I think there is a problem with that.

Mr. Chairman, have you had discussions about a reclassification of broadband services via Title II if the FCC loses the D.C. Circuit and loses the case?

Mr. Genachowski. No. We are focused on a framework that is in place, that is working, that is driving private investment and innovation across the ecosystem. I think if we can preserve what we have right now it will continue to be a win for the country.

Mrs. Blackburn. Well, do you feel like you have the authority to reclassify broadband services under Title II and subject them to Title II regulations?

Mr. Genachowski. Our general counsel at the FCC has said consistently that we do have that authority.

Mrs. Blackburn. Okay. When do you plan to close that title?

Mr. Genachowski. We don't have plans to close it. It has been a forum for public input and participation. And as I said, we are seeing a sector that is very strong and growing and leading the world.

Mrs. Blackburn. So you plan to just leave it open as long as you want to?

Mr. Genachowski. It is a forum for the public to comment, and they have done so, and I expect they will continue to do so.

Mrs. Blackburn. Yes, sir, I think you are going to hear a lot of public comments. I think people are going to be weighing in readily with you on these issues, and I think the uncertainty that is generated

around some of the activity does not serve our innovative community well, and I hope that we can provide some certainty.

The task force and, Commissioner Pai, I appreciated that you mentioned that, and I know that you are looking forward to working on that task force. So, Mr. Chairman, is the task force going to be focused on modernizing an obsolete regulatory framework so that we can finally rationalize this new marketplace of converged services and hasten the IP transition to next generation networks or do you intend to use it to put legacy regulations on new technology? So where are you planning to head with that?

Mr. Genachowski. Our goal really since I arrived in 2009 was to focus on unleashing the opportunities of broadband and addressing all of the policy issues associated with that. We did that through the Universal Service Fund reform and creation of the Connect America Fund, the Disabilities Act implementation, et cetera. We will continue as we have been doing to drive the rollout of digital networks, digital IP networks. It is very exciting for the country, and we need to see continued private investment in that. We also need to make sure that in the world, in this transition consumers are protected.

Mrs. Blackburn. Let me interrupt there just a second. Do you think it is necessary for you to drive it or do you think that the free market drives it?

Mr. Genachowski. I think the free market is driving tremendous investment. I think we create a climate for investment, and we have to make sure that any rules we have in place that shouldn't be there

get taken away, and things we need to protect --

Mrs. Blackburn. Can I submit a list?

Mr. Genachowski. -- consumers, public safety and competition, are in place.

Mrs. Blackburn. Commissioner Pai, 5 seconds.

Mr. Pai. I will try to be very brief. I would just support the Chairman in his formation of the task force, look forward to working with him, the Commission staff on making sure that we have a regulatory framework that incentivizes, not penalizes investment in next generation networks.

Mrs. Blackburn. Well done. I will yield back. Mr. Chairman, I have one question that I am going to submit for the record.

[The information follows:]

******** COMMITTEE INSERT ********

Mr. Terry. Thank you. The chair now recognizes the gentleman from Pittsburgh, Mr. Doyle.

Mr. Doyle. Thank you, Mr. Chairman, and I want to welcome the commissioners back to our committee room and tell you that it was good to see all of you last week in your committee room.

Mr. Chairman, just very briefly, because this is a little off topic, but I have to ask, can you give us any update on special access?

Mr. Genachowski. Sure, it won't be the first time that you asked that question and we have had a chance to talk about it. As you know, we have been working as a commission on what we have announced would be the next step, a data collection order. I don't know if this has been announced, but I can tell you now that order has been voted, and as soon as it is finalized it will be issued, and we will be moving forward in the special access area in the ways that we have announced.

Mr. Doyle. Excellent. And what is the timing? So that all commissioners have voted?

Mr. Genachowski. Yes, it has all been voted and the staff is finalizing the process to release it.

Mr. Doyle. Very good. Okay, thank you very much.

Mr. Chairman, I want to ask you about the Commission's work on designing the forward auction process with regards to the eligibility of competitive wireless carriers to bid for a license. I think it is very important that we ensure a competitive wireless marketplace, and that requires all carriers to have a sufficient amount of spectrum to be able to offer comparative quality of service. That means being able

to deploy 4G LTE service in a reasonable time frame and being able to avoid frequent dropped calls. So for every carrier, the ability to secure spectrum licenses means the ability to stay competitive with other providers. So I think it is important, Mr. Chairman, for the FCC to be able to give all potential participants a fair shot at the bidding process. I would like to see more carriers have LTE capability and more robust coverage. That means the FCC has to design auctions in a way that will maximize the competitive benefits of this resource.

Mr. Chairman, I do want to enter into the record before I go further a letter from the Competitive Carriers Association addressing the issue of bidder eligibility because I think it does a good job in laying out the concerns these carriers have with being able to participate in the auction. So I would like that entered in the record.

Mr. Terry. Hearing no objection, so ordered.

[The letter follows:]

******** INSERT 2-1 ********

Mr. Doyle. Thank you.

There should be no confusion on this point. The legislation passed by Congress gives the FCC flexibility to design auctions in a way that allows everyone to participate, including smaller carriers. I want to urge all of the commissioners to take advantage of the tools at your disposal to protect competition.

So, Mr. Chairman, let me ask you, is this an issue to which you will give close consideration?

Mr. Genachowski. Yes. And I agree with the way you characterized it.

Mr. Doyle. Thank you. Mr. Chairman, I want to ask you a little bit about media ownership, too. You might remember I brought up this issue at a previous hearing, and I continue to be very concerned about moving forward with relaxing cross ownership rules again before we complete an FCC analysis on the impact such a rule would have on changes in female and minority ownership. Mr. Chairman, the FCC's incentive auction NPRM envisions that television stations could engage in channel sharing in order to free up spectrum for reallocation. Have you considered the impact of this proposal on media ownership and diversity in light of the ownership order that you are currently circulating?

Mr. Genachowski. We do think that the incentive auction process will provide new opportunities for minority owners to continue providing service in a difficult marketplace, by receiving money for sharing channels or by potentially receiving money for moving from UHF to VHF, so we see the incentive auctions as a net plus for minority

ownership, and we are working and will continue to work with the community to work through those issues.

Mr. Doyle. Yeah, I think some are just concerned that we understand what these impacts are before we move forward because the concern is sometimes after a ruling is made and you continue to study these issues, it is very hard to get the genie back into the bottle, so to speak. So I would just urge you and the commissioners to take a closer look at the impact of these auctions in light of your media ownership review, and I thank you for the work that you are doing.

Mr. Chairman, with that I will yield back my time.

Mr. Terry. Thank you, Mr. Doyle. At this time recognize the gentleman from Louisiana, Mr. Scalise.

Mr. Scalise. Thank you, Mr. Vice Chairman, and appreciate the hearing and especially the five commissioners for being here with us. I want to start by looking at the Congressional Budget Office estimate on the spectrum auction. If you look at the NPRM, the estimates are that it would raise about $25 billion from the broadcast incentive auctions, and I just want to get your take on what you think can be achieved. If you look at the CBO report, does that match with where you think you will be? I will start with the Chairman, get your take on that.

Mr. Genachowski. Well, both CBO and OMB have looked at the proposal, they scored it, and certainly it is not in our expertise to revise that scoring. We are certainly focused on running an auction that generates very substantial revenue for FirstNet and beyond. One

of the key factors in that will be broadcaster participation, and that is why we are all working together with the industry and with others, why we are happy to see the group formed that we heard about at the beginning of the hearing from Chairman Walden of broadcasters who are saying you know what, this makes sense, and we want to work proactively with the Commission to design rules that encourages our participation because that is the best way to free up the most amount of spectrum.

Mr. Scalise. Commissioner McDowell?

Mr. McDowell. I am a little bit more cautious. I hesitate to use the word "pessimistic." And I hope that I am proven wrong as to how much that will actually raise. As was pointed out earlier in this pie chart, it has the 55 megahertz actually being auctioned. You have to keep in mind that in the markets where we need spectrum the most, these are the largest cities, that is where we are the most spectrum constrained for mobile broadband. That is also where broadcasting is the most profitable because there are more eyeballs condensed, you know, compacted into a small area, like, let's say, New York City where there are 28 TV stations. So in order to yield 60 megahertz, let's say, at 6 megahertz per TV station, that is 10 TV stations or licensees that would have to go dark or channel share in a New York City, for instance. That is more than a third. That is a lot. I hope that is the case. I hope it actually happens, but I am not convinced yet that it will.

So I think we need to be more cautious and sort of fiscally conservative with some of the assumptions that went into the CBO or

the OMB estimates.

Mr. Scalise. If I could just emphasize because, you know, there are some components of the bill for public safety, other expenditures, but another part of that legislation was to provide some revenue to pay down the national debt. $15 billion is right now estimated to be raised that would go towards paying down the debt. So as you are conducting the auction, clearly we want to free up more spectrum, and that is going to create jobs, it is going to allow us to do a lot more things that we can't do today, but it also allows us an opportunity to have some real money to start paying down the debt. So I would like to emphasize that as well.

I want to talk about the Dubai hearings, and I know you touched on it, both Chairman Genachowski, Commissioner McDowell, I want to thank you all for both representing the United States in those talks, and we are going to be following it, and I was glad that we passed the legislation out of the House, now the Senate and House have both spoken very loudly in a bipartisan and unanimous way that we oppose any attempt by the United Nations to take over parts of the Internet, and we want to see it continue to be an open and free model with a multi stakeholder approach. I think, Commissioner McDowell, you touched on this some in your opening. Do you see some hypocrisy where Title II is open here in the United States and yet we are in Dubai telling them not to use this outdated approach to trying to grab more pieces of the Internet internationally, but here in the United States there still seems to be this open ended question with Title II open that that maybe sends

a mixed signal. I wonder if either of you would like to touch on that.

Mr. McDowell. Excellent question, and I will try to be diplomatic with the response because we are at a crucial time in these diplomatic negotiations. The answer is both yes and no. Yes in that we say internationally we want to keep government out of the space, that the multi stakeholder model is the way to resolve conflicts, and it has worked very well for consumers ultimately. No in that one of the messages being put forth is that each nation has the sovereign right to determine what its Internet policy should be, and there should not be an international regulatory overlay. So there is a distinction between an international regulatory overlay and a domestic policy overlay. I happen to think it is more intellectually honest and consistent to say that government should stay out of the space altogether as much as possible, and we should therefore close things like the Title II docket.

Mr. Scalise. Chairman Genachowski.

Mr. Genachowski. In both cases the goals and the actions are designed to preserve Internet freedom and openness, to preserve the Internet as we know it, and to ensure that no gatekeepers, public or private, interfere with Internet freedom so that we have the innovation and free speech that we have seen from the Internet for the last 20 years continue for the next 20 years and beyond.

Mr. Scalise. Thank you for your time and answers, and I yield back the balance.

RPTS JANSEN

DCMN BURRELL

[12:00 p.m.]

Mr. Walden. The gentleman's time has expired.

The chair now recognizes the gentlelady from California, Ms. Matsui.

Ms. Matsui. Thank you, Mr. Chairman. I want to thank you very much for holding this hearing today.

And I want to thank the Commission for being here today. And, well, as you know, you are going to be arguably undertaking probably the most complex spectrum auction in history, and I think you all know it needs to be transparent. And I believe Congress must work closely with the Commission to ensure the auction's success.

Mr. Chairman, the Middle Class Tax Relief and Job Creation Act directed the FCC to auction up to 120 megahertz of additional spectrum to be reallocated from mobile broadband services for the broadcast incentive auction. If we don't see strong participation from the broadcasters during the incentive auction process that reaches Congress' goals, does FCC have a fallback plan?

Mr. Genachowski. Well, our focus is on implementing the statute. It is a very good idea to provide a mechanism to reallocate spectrum from existing commercial to broadband. I say that not only because Congress passed it, but because we originated it in our national broadband plan in 2010.

I think "caution" is a good byword here. But we are seeing more

and more reason to be optimistic, including the formation of the group of Chairman Walden mentioned before. And my hope and expectation is that we will see a successful process. Certainly, we are on optimizing all of our work to make the process simple, understandable, and allow broadcasters to be in a position with a -- can make an economically rational decision.

Ms. Matsui. Okay. In case, just in case it does not work out quite the way you feel it should work out, do you have a next step at all? I mean, where do you look for the next tranche of spectrum? I am sure you are looking at this not just in a linear way. That is not the way everyone operates here. You are thinking about other opportunities here.

So where do you see the next tranche of spectrum coming from after the upcoming incentive auction? Are you looking at the 1755 to 1850 band?

Mr. Genachowski. Yes. It is a great question. And we don't see these as mutually exclusive at all. And so 1755, the 3.5-gigahertz item that we will vote on later today, which is 100 megahertz that we are very excited about, 40 megahertz of spectrum that the Commission voted on last night to free up in the satellite band, 30 megahertz of WCS, we see other opportunities for government spectrum. So this is a very high priority; as a commission, we all agree on it. And whatever happens with incentive auctions, we will continue to move forward relentlessly on all of the other opportunities and policies.

On the incentive auction piece, I expect it will work. Congress

will continue to be interested. I think what Congress has done in the law is to say, this is a band where we expect to see a significant amount of spectrum freed up for mobile broadband.

Ms. Matsui. Right.

Mr. Genachowski. This is how we would like to see it work. And I expect that the broadcast industry will get that message.

Ms. Matsui. Okay. Commission Rosenworcel, you know, spectrum is going to be a big part of the budget debates in the coming years. So we will need to generate new revenues for the Treasury. As stakeholders continue their efforts for a long-term spectrum solution, do you see any opportunities for a meaningful amount of revenues that can be generated, at least probably in the short term, from sharing opportunities? What are your ideas on ways to generate revenues from sharing and ways to incentivize agencies to relocate?

Ms. Rosenworcel. With respect to spectrum, I think demand is only going to continue to grow. So we are going to need to have an all-of-the-above approach. That will include things like sharing. And as you are probably aware, with the 1755 band, we are trying to identify if that is viable for sharing with the 2155 megahertz band that we need to auction within the next 3 years.

With respect to existing Federal users, I believe that agencies are mission-focused. They use their spectrum in service of their missions, but they lack today incentives to use that spectrum efficiently. I think it is time that we infuse those missions with rewards for using their spectrum efficiently. And if we do that, we

are highly likely to be audible to call more spectrum back from Federal users over time and repurpose it for commercial use.

Ms. Matsui. So in working with some of the agencies and talking with them, I think they understand that. But this idea of relocating en masse is something they can't do. Not in a short term, anyway.

So as we move forward, I think we need to be very creative about how we incentivize the agencies to move forward in a way that is timely by trying to figure out more incentivizing ways to do this and also incentivize the sharing as maybe an interim step as moving forward. And I think what I am saying is what we need to do is have a long-term process with certain benchmarks along the way so there is a sense that we are moving forward.

So anyway, I thank you very much for everything you are doing, and I yield back my time.

Mr. Walden. The gentlelady yields back the balance of her time.

The chair recognizes is incoming vice-chair of the Subcommittee on Communications and Technology, the gentleman from Ohio, Mr. Latta.

Mr. Latta. Thank you very much, Mr. Chairman, and thank you very much for conducting the hearing today, and again to all the commissioners for appearing before us today.

I have an explanation from Cisco, Why Spectrum of 5 Gigahertz is Better for Unlicensed Use Than Even the White Spaces."

I would request unanimous consent to submit it for the record.

Mr. Walden. Without objection.

[The letter follows:]

******** COMMITTEE INSERT ********

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

Commissioner Pai, the statute identifies an additional 195 megahertz of spectrum above 5 gigahertz for unlicensed use. In light of that, does it make sense to jeopardize the auction and the public safety network by pulling out for unlicensed use the broadcast incentive spectrum ideally suited for licensed wireless broadband?

Mr. Pai. Thank you for the question, Congressman.

As I stated in my testimony, I am very bullish about unlicensed use in the 5 gigahertz band for the reasons that I expect are identified in the letter you just submitted for the record. I have spoken with Cisco and other players in the industry who have worked on and helped develop Super Wi-Fi technologies that would be compatible with the 5 gigahertz band, 802.11ac standard, which I mentioned earlier.

But the basic reason I am bullish about 5 gigahertz in particular is this: If you think about what the ideal use for unlicensed is, it is fast speeds for data transmission within a relatively small area, such as a home or an office. Five gigahertz is perfect for that because you can, as the Spectrum Act envisions, dedicate gigantic channels that would be 160, even larger megahertz, for the sole purpose of transmitting data.

And, additionally, not an engineer -- much to my parents' chagrin -- but what I have been informed is that the propagation characteristics of 5 gigahertz waves are such they don't travel through walls, they don't travel very far. So you don't have the risk of interference that you might have lower in the band.

So if you have, you know, gigabit wireless throughput, thanks for 5 gigahertz, that is a tremendous opportunity that I think we should take advantage of.

So I am pleased that the Spectrum Act requires the Commission to commence the rulemaking process on 5 gigahertz by February, because I think that this is an area, consistent with the Chairman's call for greater innovation and investment in unlicensed, where we could really see some bang for relatively little bucks.

Mr. Latta. Thank you.

Commissioner McDowell, the administration has talked a lot about the need to bring additional spectrum to the market for commercial use. In your view, has their behavior matched the rhetoric and how important is the secondary market in dealing with the spectrum crunch?

Mr. McDowell. I think there are two issues, actually. One would be spectrum sharing in the Federal spectrum space, and the other would be secondary markets.

So to answer a your secondary markets question first, I think we could do better to ensure a freer and faster flow of spectrum in those markets to make sure that spectrum flows to its highest and best use in as unencumbered a way as possible.

Secondly, I would love to see the executive branch, Federal users spectrum, actually do a better job of offering up spectrum for auction rather than sharing. Sharing can be very beneficial, as we have just discussed; unlicensed use, that is a form of sharing. But there is no substitute for exclusive-use licenses.

I think Congress can have a role here in maybe trying to provide Federal users of spectrum an incentive to get off their spectrum. It is an opaque process right now. The law says that if it costs more to move them off their spectrum than it would raise at auction that you can't move them. So let's do what we can to get them off that spectrum and try some carrots.

Mr. Latta. Thank you.

Chairman Genachowski, in the NPRM it talks about a geographic area. It says, "items available for bid." And when I was reading through this and kind of going back, what Mr. Dingell was also talking about because, you know, where we are located from northwest Ohio, and of course growing up as a kid, we got Canadian television stations in our area, and vice versa for Canadians.

What is the definition and how would you define that geographic area because you say the multiple blocks of spectrum available in a geographic area? What is a geographic area?

Mr. Genachowski. I think that is a question that we teed up for comment and input in our public proceeding.

If I could say one thing on the border issues, these are very important issues that come up every time there is any transition in spectrum, whether it is commercial or public safety, and we have very good processes in place both with Canada and Mexico to negotiate through these issues. And in decades of work, our countries have solved every one of them. And so I fully expect that that will happen here and that we will address the border issues in a way that doesn't interfere with

the incentive auction.

Mr. Latta. Thank you very much, Mr. Chairman, and I yield back.

Mr. Walden. The gentleman yields back the balance of his time.

The chairman recognizes the gentleman from New Jersey, I believe is next, Mr. Pallone.

Mr. Pallone. Thank you, Chairman Walden.

Let me quickly say that I encourage the FCC to keep on track with implementation of this spectrum law, but not to overlook important details that will ensure a successful auction for all stakeholders.

However, today, I am interested in discussing the recent superstorm Sandy. Its devastation has greatly impacted my district and many other districts in New Jersey and New York. An examination of the communications performance and reliability in the wake of Sandy is of great importance. And that is why my Democratic colleagues sent a letter to you, Chairman Walden, requesting a hearing following the storm. It seems that communication services failed to perform as needed during and after the storm, power outages and floods disrupted many types of communications, including wireless, TV, telephone, and Internet services. According to the FCC, the storm knocked out a quarter of the cell towers in an area spreading across 10 States, leaving millions of cell phone users unable to make calls.

I had three questions I wanted to ask Chairman Genachowski. And first, what are you doing to ensure the reliability of the communication networks during and after natural disasters? And, more specifically, what efforts are underway at the FCC to identify and highlight best

practices and, where necessary, to address potential vulnerabilities in our communications infrastructure?

All that in a minute or two.

Mr. Genachowski. Let me try to cover a little bit of ground. Obviously, the devastation in New Jersey and that region was tremendous. And I want to note that our 24/7 operations center at the FCC played in this disaster as it had in others a very important role in the recovery efforts. In New Jersey in particular, we were engaged with the New Jersey Broadcaster Association in efforts to get fuel to cell towers as quickly as possible, working with State and local authorities in New Jersey, as well as FEMA.

We did receive your letter. And, in fact, as you might know, we have announced field hearings that we will be starting in January. That continues an effort that has been underway at the Commission to ensure, working with State and local authorities, the resilience and reliability of our communications networks.

These disasters show that communications devices, mobile communications devices, are interwoven in our lives. They are how we communicate with our families, with emergency services providers, our businesses. And we need to constantly look at these issues, make sure we have in place systems, including best practices, that give us a reliable communications network. And we have to take seriously the interconnection between our communications grid and our power grid which have their own issues --

Mr. Pallone. Right.

Mr. Genachowski. -- and address what we need to do to make sure the communications networks stay up.

Mr. Pallone. Let me move on because I want to ask two more things.

But if those field hearings haven't been scheduled, if there is some way to coordinate it with our schedule in the House, because it would be nice to be able to be there, if that is possible.

Mr. Genachowski. We will work with you on that.

Mr. Pallone. Large numbers of people, as you know, because they didn't have power, turned to the radio and other broadcasting. You mentioned the broadcasters. Audiences were up 247 percent Monmouth County, 195 percent in Middlesex. These are part of my district.

How are you working with the broadcasters to ensure that they continue to play an important and robust role in information sharing during natural disasters like Sandy?

Mr. Genachowski. I agree with your point. And we saw both TV and radio continue to play a important role in disasters at the same time as we see mobile and new Internet, social media play important roles. I agree with Craig Fugate, our FEMA head, that these multiple platforms together can help improve our public safety profile all around.

The broadcasters, one of the things that we do during crises like these is make sure that when they have tower or other issues affected by the storm, we immediately do what we need so that they can stay on the air. And during this disaster, we granted a number of what are called STAs, essentially Special Temporary Authorizations, to make

sure broadcasters can stay on the air. This is a hard thing for broadcasters to do, and others.

And I just want to take a moment to note that the broadcasting industry, the mobile industry, the cable industry, in the worst parts of the storm, each of those sectors had people on the ground, at risk to their own personal safety --

Mr. Pallone. That is true.

Mr. Genachowski. -- to get networks up and get them back up.

Mr. Pallone. Let me just ask you lastly about Wi-Fi. When many citizens in the States lost access to wireless and Internet, I understand that Wi-Fi hotspots were offered for free in public areas during and after the storm and became an alternative for Internet access.

Does this highlight the approach you discussed today about the need for a balanced spectrum policy that includes unlicensed uses like Wi-Fi?

Mr. Genachowski. Yes.

Mr. Pallone. You have 2 seconds for that.

Mr. Genachowski. Yes.

Mr. Pallone. All right. Thanks so much.

Thank you, Mr. Chairman.

Mr. Walden. Were you able to get the questions in you needed?

Mr. Pallone. Yes. "Yes" was fine for the last one. Thank you.

Mr. Walden. All right, thank you. We will look forward, Chairman, to the results of your hearings out there as well. I think

the committee, obviously, on both sides, very concerned about response in a disaster situation. And as we have talked after the nationwide EAS test, which you initiated for the first time didn't quite come out as we would all hope. These things matter a lot. So thank you.

We will go now to the gentleman from California, Mr. Bilbray, for questions.

Mr. Bilbray. Thank you, Mr. Chairman. And Mr. Chairman, I would like to follow up on the questions from the gentleman from Michigan, Mr. Dingell.

You know, Mr. Chairman, the conversation with Mr. Dingell has got me kind of concerned. I don't know what part of the country you hail from.

Mr. Genachowski. I was born in Boston, grew up in New York.

Mr. Bilbray. All right. Can you imagine what the response would be from the people in Boston or New York or Washington, D.C. if they tried to make a phone call and someone in a foreign language, or in English, notifies them that France -- you know, the Paris cell phone company has confiscated your call and that if you want to make this call you need to call this number and get a license -- basically get an account with them.

That is the kind of response that people along our international borders get, and have in the past.

Can you imagine my constituents or my brother says to me, "When I am a part of the United States, why is a foreign corporation confiscating my calls?"

So I am very concerned when, first of all, when Mr. Dingell brought this issue up, it didn't seem to be on your radar, quote, unquote.

And I am also concerned when you state that we have a history of great cooperation with our neighbors to the north and the south.

I want to make sure today that you are all aware this is an issue that you need to address. And the people along the fronteras, both north and south, are just a much a part of the United States and have as much right to access to telecommunications as somebody in New York, Boston or D.C. and should not have to accept the fact that, well, you are on the border so you just accept the fact foreign companies can confiscate your calls.

So that said, and I think I made it clear, what conversations are you having today with the United States of Mexico and Canada?

Mr. Genachowski. Well, I would like to follow up with you on the issues you are mentioning and learn more.

With respect to the incentive auction transition and border issues that will come up with broadcasters who may have to move to stations where they are concerned, and I understand these concerns with the potential for interference, we have begun the process at the staff level with both Mexico and Canada to work those issues out. These are similar to issues that have been worked out in public safety bands and in other bands. But I look forward to working with you and make sure we fully understand your concerns.

Mr. Bilbray. I mean, it is an essential issue. My hometown, at

least half of the city cannot make cell phone calls at certain times because of foreign interference. And then we finally worked that out with some deals.

But how close are we to resolve these issues, though?

Mr. Genachowski. I would say we are at the beginning of the process with respect to incentive auctions in Canada and Mexico.

Mr. Bilbray. What incentive is there for Canada and Mexico to cooperate with us on this issue?

Mr. Genachowski. Ultimately, they seek to put in place spectrum-related services in their countries that have counterbalancing effects on people who live on the U.S. side. And so it is in both countries' interests in order to maximize their own services to reach accommodations at the borders. It is true for both commercial and public safety. It is sometimes a bumpy process, and I certainly wouldn't want to overstate how easy it is to get through -- these issues resolved. But I do know over the last 4 years while I have been chairman, we have resolved some very complex issues and then our expectation is we will be able to do that here and we will work very hard to do so.

Mr. Bilbray. Okay. Let me say for the record, because everybody's talking about what -- you know, the situation with Sandy.

First of all, somebody who had family that lived through Katrina, and I was in there after Katrina and in California that lived through the fires in San Diego, the reverse 911 and the cell phone capabilities worked extraordinarily well in San Diego. That technology was a

lifesaver and worked well.

The fact is that those of us that were hit by Hurricane Katrina found that it was much more probable that when your electricity gave out that your cell phone worked enough to be able to call and say you were out of power. And I know it for a fact that transformers were replaced. And it was because of that public/private partnership that we had during those disasters, both in San Diego and down in the Gulf that that ability to have that public/private was absolutely essential.

So I just got to tell you, with everything, the problems we pointed out, the fact is that it was much more probable after Katrina that you had phone services than if you had power services.

And so those who want to talk about the old hard line technology as being dependable, it definitely was not more dependable than the new technology we had. So with all problems they talk about Sandy, I will just tell you as somebody who lived through two disasters, the system worked well.

My concern still is on you. The people along the borders of the United States put up with a lot because of where they live. They darn well shouldn't have to put up with foreign corporations or foreign governments confiscating their communication system. And you, all of you, have as much responsibility to make sure that does not happen again and make sure they have equal assess to their technology or their government and their system as somebody who lives in Kansas.

And with that, I yield back, Mr. Chairman.

Mr. Walden. Gentleman yields back.

And I appreciate the Chairman's willingness to continue to work with our colleague from California in the future.

Now I recognize the gentlelady from the Virgin Islands, Dr. Christensen, for 5 minutes.

Dr. Christensen. Thank you, Mr. Chairman. And thank you to the commissioners for being here this morning.

I guess a lot of my questions have been at least in part answered. We talked about the importance of the radio and television broadcasters during Sandy. And as a person who comes from an area that is prone to hurricanes, those are important to us. And we also -- Congressman Pallone talked about the importance of Wi-Fi, and we know that the cable companies were able to use Wi-Fi and provide services so that families could communicate during Sandy and communicate with emergency services.

So some of you have already indicated your commitment to this, but I just wanted to assure from each of you that you are committed to promulgating rules that will promote the use of unlicensed technology in the guard bands.

I think you answered it, Commissioner Pai, in your last question, that each of you are committed to promulgate rules that will promote the use of unlicensed technologies in the guard band?

Mr. Genachowski. Is that -- that was our proposal. And we are now seeking comment. And we have laid out the Commission proposal, which is to do that.

Dr. Christensen. Okay.

And, again, on the issue of diversity, which at least two questions were asked regarding this already. But a continuing concern to the Tri-Caucus is the need for more women and minorities in ownership positions in media companies.

Are you concerned at all, Chairman Genachowski and maybe Commissioner Clyburn, that the television stations most likely to offer to return their spectrum in a voluntary incentive auction might also be stations that offer unique and more often the more ethnically diverse programming?

Mr. Genachowski. I am concerned in general about diversity. It is a fundamental obligation of the Commission. I do think that the incentive auction provides new economic opportunities for minority broadcasters, for language broadcasters, et cetera, because in a difficult market it creates opportunities to receive additional capital for spectrum sharing or for moving from UHF to VHF. And we certainly heard from members of the minority community that they are interested in learning more about those possibilities, because this could be win-win for minority broadcasters.

Dr. Christensen. Commissioner Clyburn.

Ms. Clyburn. As you know, the existing ecosystem as it relates to diversity, particularly with people of color and women, it is almost nonexistent. I mean, we are talking about single-digit ownership engagement. So that always has been, even before I got sworn in, has always been an interest of mine and a concern of mine.

As it relates to this current pathway, as it relates to incentive

auctions, one of the things that I say all the time, and I am very monotone and repetitive about it, is this is a voluntary engagement. And because of that, even though the numbers could be few, they do have an opportunity to participate in this framework. I am hopeful that it will take advantage of and consider any and all opportunities, including sharing, so existing programming cannot or will not be lost.

Dr. Christensen. And perhaps the Tri-Caucus could be helpful in providing information and opportunities or encouraging some of our stations to participate.

Ms. Clyburn. Absolutely. And as it relates to employment, too, this office has been engaged with a lot of principals and a lot of people in the ecosystem. And I look forward to working with you on those issues.

Dr. Christensen. Thanks, and Commissioner Rosenworcel, just a follow-up to Ms. Matsui's question, were there specific incentives that you had in mind for -- I serve on the task force. So we were discussing these with some of the government agencies, how they can reallocate, give up some of their spectrum. Did you have some specific ideas about incentives?

Ms. Rosenworcel. Yes. For starters, though, I want to say that the task force that the subcommittee has set up on Federal spectrum is a terrific idea. I appreciate that it is bipartisan.

The wireless revolution is here to stay. The demands on our airwaves are only going to continue to grow. As far as incentives for Federal users, I think we need to create them so that they can be

efficient and they are inspired to return spectrum so that we can auction it off for commercial uses. That could include financial rewards associated with the revenues from its subsequent auction for commercial use, it could also include structural rewards in the budget and appropriations process. And, finally, I think that these ideas are consistent with the idea of synthetic currency, which was proposed by the President's Council of Advisers of Science and Technology in their recent report on Federal spectrum use.

Dr. Christensen. Thank you.

And I guess my last question to the Chairman, Commissioner Pai suggested June 30th, 2013, as a deadline for the auction. Is that a reasonable or an achievable date?

Mr. Genachowski. I think, I stand to be corrected I think it was 2014.

Dr. Christensen. 2014. Sorry. Yes.

Mr. Genachowski. So 2014 is I think when we are targeting. I think we will know more about what would maximize the benefits of the auction as the comments come in. But we are certainly on a path to conduct the auction in 2014.

Dr. Christensen. Thank you, Mr. Chairman.

Mr. Walden. The gentlelady yields back the balance of her time. The chair recognizes the gentleman from Kentucky, Mr. Guthrie, for 5 minutes.

Mr. Guthrie. Thank you very much. I really appreciate the commissioners for being here today. I appreciate your taking your time

to be here.

A couple of questions, three questions. One for the Chairman first.

In the statute, the language "all reasonable efforts," the language is in there designed to preserve the contour of a current television signal.

Could you tell me what that phrase means to you, and will that phrase be interpreted to mean no more than a certain amount of interference will be tolerated and, if so, how much will that be?

Mr. Genachowski. Well, I think that is the kind of question where we have an obligation to run the process we are running, hear from stakeholders and get input on the precise definition. The statue is clear "reasonable efforts on population and coverage," and our obligation is to comply with the statute.

Mr. Guthrie. So you don't have any personal interpretation of that?

Mr. Genachowski. No. No. We laid out, I believe, some thoughts in the notice of proposed rulemaking, but we will work very closely with stakeholders on giving content to the Congressional directive.

Mr. Guthrie. All right, thanks.

Commissioner Pai, I was on the working group for government spectrum, and Congresswoman Matsui and I led that effort, and we took a deep dive into it. And one thing that we were looking around is the issue of shared spectrum. So in the PCAST report, the 2012 PCAST report

suggested that we should move away from licensing and towards a greater reliance on spectrum sharing.

And my question for you is, are you aware of any commercial available product that is available today for use if we move towards a system of sharing? And to the extent that infrastructure and devices are not currently built around the concept of sharing, what might the challenging tradeoffs be?

Mr. Pai. It is a great question and I think I am not personally aware at this point. But one of the things I do have concerns about with the sharing is it is a largely untested, untried endeavor that requires coordination among potentially hundreds of Federal users. One of the fears, as I pointed out in my testimony, is that while larger players and on the commercial side may be up for the challenge of doing that kind of coordination, some of the smaller players might not.

I think -- I am not opposed to innovative sharing strategies, as I said, again, in the testimony, that geographic sharing, for example by creating exclusion zones, can allow us to reuse the spectrum in places where Federal users aren't using it. But I think, by and large, our focus really should be on clearing. I think an unencumbered right to spectrum creates a maximum incentive for a user on the commercial side to develop it and to deploy it in an efficient manner to the benefit of consumers. And so one of the things that I think we really need to prioritize is not just sharing writ large or even sharing as an interim measure, but clearing as the gold standard for our approach to Federal spectrum in particular.

Mr. Guthrie. Thank you.

Then for Commissioner McDowell, also from the work of the working government spectrum working group, the GAO recently reported that total percentages of the most highly valued spectrum exclusively or predominantly used by Federal government is as high at 57 percent. And given Federal agencies' budgets, many of these systems are not up to date and thus operate inefficiently.

And would you discuss whether or not some of these Federal uses could be served by commercial mobile private providers and how could Federal spectrum holdings be operated more efficiently? So could commercial also take some use of this Federal -- of government use and then how would it be more efficient?

Mr. McDowell. Excellent question. And this is something I have teen balking about for years, actually, is the potential for off-the-shelf private sector solutions, including with a nationwide public safety network. I think that is going to have to be a must. Seven billion isn't going to cover it, as the statute calls for. You are going to have to have off-the-shelf, private sector technologies to help there.

But we don't know how efficiently the Federal Government is using spectrum. I think we can safely assume, however, that it is not using it terribly efficiently. And that is why I think Congress really needs to step in here to try to make that whole world less opaque and more transparent respecting classified spectrum and all the rest, but to make it more transparent and also to give Federal spectrum users an

incentive to relinquish their spectrum for exclusive use licenses through auction as Mr. -- as Commissioner Pai just eloquently pointed out. That does provide the best incentive for build-out and use of these frequencies.

Mr. Guthrie. While I have got a few -- a half of minute, I guess, basically, the question for Commissioner Pai, anybody else want to respond to what was basically to commercial available products that shared will work or the likelihood of it happening, it working.

Mr. Genachowski. I would just point out that it is in the interest of both the commercial sector and the military to develop incentives to get more commercial technology into military use. The reason is, there is a growing gap between the price and functionality of military communications equipment and commercial. There always has been. It is getting larger because of the tremendous innovation on the commercial side.

I have had a chance over the last few months to speak directly with senior officials in our military services. And I believe that there is real work going on to think about how to take advantage of commercial innovation on the military side more quickly, providing better communications to our troops at lower cost.

Mr. Guthrie. Thank you very much.

I yield back, Mr. Chairman.

Mr. Walden. The gentleman yields back the balance of his time.

The chair recognizes the gentleman from Illinois, Mr. Rush.

Mr. Rush. Thank you, Mr. Chairman. And to the commissioners,

happy holiday. And I welcome you here to this hearing.

You five commissioners are some of the -- are five of the most important people in our Nation. You five commissioners oversee networks, industry, mediums that inform our democracy and that are essential to protecting our freedom. You oversee industry, the sectors that make up more than a fifth of our GDP and employ tens of millions of our Nation's workforce.

However, I have been on this committee for about 17 years. And for those -- each of those 17 years, I have seen a litany or many, many commissioners come before us to discuss minority ownership. And we seem to get more and more platitudes, less promises, but absolutely no performance. And I am getting pretty fed up with this continuum of excuses that seem to come forth from the Commission itself. I think it is high time now for you to get serious about this issue of media ownership.

As a matter of fact, there has been -- and I am going to ask you the question. And you each can answer this with a yes or no answer. Is it acceptable to each of you that there are only 28 full-power TV broadcasters owned by minorities in this country? Yes or no.

Mr. Genachowski. No, that is not acceptable.

Mr. McDowell. No.

Ms. Clyburn. No.

Ms. Rosenworcel. No.

Mr. Pai. No.

Mr. Rush. Does the Commission know, for example, how many

minority employees are in the broadcasting or new media industries? Do you know the answer to that question?

Mr. Genachowski. I don't know the number off the top of my head.

Mr. McDowell. No.

Ms. Clyburn. I don't have that information.

Ms. Rosenworcel. No, I don't have that information right now.

Mr. Rush. I am also glad that you all postponed your rulemaking on media or media ownership because you did not know the impact of the proposed rules on minority ownership and audiences. And so that leads me to another question that I have.

What besides a new tax certificate policy could increase diverse ownership of special licenses?

Let me just give you some figures.

In the 17 years that FCC had the minority tax certificate policy, that policy produced 364 tax certificates and over 200 million transactions, totaling more than $1 billion in value. That represented about two-thirds of all minority-owned stations. When the policy, the tax certificate policy, began minorities owned about 40 of the 8,500 broadcast stations. Over its lifetime, the policy, the tax certificate policy, helped raise that number to 333 stations; 290 radio stations, 43 TV stations. It also yielded 31 cable systems. Currently, there are no minority-owned cable systems that are operating today.

And my question to you is, what do you believe, other than a new tax certificate policy, could increase diverse ownership of broadcast

licenses, given the history of the tax certificate program, which was ended by the Republican Congress in 1995?

Mr. Genachowski. A few points, if I could. I agree with you on tax certificates and encourage the ongoing consideration of that. I will mention several areas of potential. One is the Low Power FM order that we adopted last month, which will create new opportunities for minority and other broadcasters to get into the business at lower levels of capital. And so for new entrants from the minority community, I think that is an important opportunity.

A second is the work that we have been doing under the leadership of Tom Reed in our Office of Communication Business Opportunities to try to bring together capital and minority women, other small business entrepreneurs. Very good work, and I thank Tom Reed for that work.

And the third that I would point to is the Open Internet Order, which keeps the Internet and content media on the Internet available for anyone around the country to develop the business and reach an audience. And we are seeing minority entrepreneurs take advantage of that platform, create online content businesses, and then use that as a way to move to traditional media platforms.

Mr. Walden. I know the gentleman's time has expired, but go ahead.

Mr. McDowell. With the chair's indulgence, if I could add to that. Five years ago this month, December 27th, the Commission voted out its historic Diversity Order. There were 13 items adopted; six were turned back by the Federal appeals court in Philadelphia, the Third

Circuit, seven still remain.

I have been a long time, ardent supporter of the tax certificate program, but there is more that can be done. Incubator programs, incentives in general to make it easier to convey stations from non-minority owners to minority owners. We also need policies that promote more access to capital. This is really what is at the root of all this. That is where the tax certificate program is so helpful. So whatever policies we could find, whatever we want to call them, that promotes access to capital for minorities and disadvantaged businesses.

Ms. Clyburn. Number one, of course, is access -- may I?

Mr. Walden. Yes.

Ms. Clyburn. Thanks. Number one of course, as my colleague stated, is access to capital.

But number two, in terms of the FCC's jurisdiction, at this time we do not have sufficient data in order to have a judicially upheld standard of framework, to meet that framework in order to move forward in any narrowly tailored approach. So the studies, fully funded studies to that end could help.

Mr. Walden. If you want to be quick, then we have to get to Mr. Stearns.

Mr. Pai. Very quickly, Congressman, two ideas that don't depend on congressional action. One idea is an idea that I have endorsed with the Minority Media and Telecommunications Council, and that is increasing access to capital by allowing more foreign investment in

U.S. broadcast holding companies. Currently, broadcasting is the only niche the communication industry where the FCC maintains a 25 percent cap, which inadvertently limits the amount of capital that U.S. broadcasters, minority broadcasters in particular, can get.

Secondly, I endorsed in September the -- what I call an AM radio revitalization initiative. Minority broadcasters in particular are disproportionately in the AM band. And it is between 21 years since we have revisited our rules at the FCC. So one of the things I would like to do is revitalize the band by trying to figure out whether there are any of rules which, inadvertently or not, stand in the way of greater minority ownership on the radio side.

Thank you, Mr. Chairman, for your indulgence.

Mr. Walden. I know my ranking member wants to make a quick comment. Then we will go to Mr. Stearns.

Ms. Eshoo. It is my understanding that, Mr. Chairman, that you haven't allocated the funds for this study.

Mr. Genachowski. For -- well, there is a study ongoing.

Ms. Eshoo. To meet that standard.

Mr. Genachowski. There is a study ongoing for which we have allocated substantial funds. That is ongoing. And we have requests for funds in our 2013 budget that would allow us to move forward with the next round of studies.

Ms. Eshoo. Is it enough money to complete it?

Mr. Genachowski. I think the amount we have requested for 2013 is enough money to complete it, yes.

Ms. Eshoo. Thank you.

Mr. Walden. Well, having given almost twice as much time as anybody else, we will now move on to Mr. Sterns to wrap up our hearing.

Mr. Stearns. Thank you, Mr. Chairman. Mr. Chairman, this is a very good hearing.

Chairman Genachowski, just a question. When we passed the bill in February with this middle class tax cut, I think as I recollect the figure was, we were going to try and give back or auction off, make about 26 billion. Is that the figure you remember?

Mr. Genachowski. I think the CBO score was roughly that.

Mr. Stearns. Roughly that. Based upon what you see now and your effort so far, do you think that is feasible we will get that kind of money back?

Mr. Genachowski. Well, I actually shared Commissioner McDowell's characterization before, which was that we should be cautious. But certainly maximizing, generating a very substantial amount of revenue to at least cover First Net and beyond is an important part of our implementation of the statute.

Mr. Stearns. In your notice of proposed rulemaking, I think there was a -- there is some question I think in the industry by some segments that they are worried about the -- when you go to different geographic locations there is not enough specific information so that the repacking process is clear. And I guess to minimize the extensive task of repacking for the broadcasters, I guess, have you done an analysis across the board on some geographic locations where that

spectrum could be more broad and less narrow, something like that? Does that make sense?

Mr. Genachowski. Congress, in the law, it instructed the FCC or had some language on how to calculate that. Reference to OET Circular No. 69. So we are now working with the congressional language. This is part of our proceeding. And to the point Congressman Markey made before, rolling up our sleeves with the engineers in the broadcast industry and the mobile industry to maximize the opportunity.

Mr. Stearns. So you say it is a formula that you are using?

Mr. Genachowski. We haven't decided how we will do it. Our job now is to implement the provision of the statute that sets some guidance for the methodology for repacking.

Mr. Stearns. Should part of that be part of the notice of proposed rulemaking so that they could understand what you are doing, or is this just going to be after the notice is over?

Mr. Genachowski. The notice addresses this issue, and this will be an ongoing process involving engineers at the industries and at the FCC to maximize the ability to free up spectrum.

Mr. Stearns. Commissioner McDowell, what percent of the spectrum usable for mobility is controlled by the Federal Government?

Mr. McDowell. I have seen estimates at about 60 percent. That may vary.

Mr. Stearns. Is it a concern that other countries seem to be able to clear spectrum for commercial use while we don't seem to be making the same progress?

Mr. McDowell. First of all, I think the U.S. as always been a world leader in spectrum. But we do have to have serious concerns about our competitors abroad, yes.

Mr. Stearns. I think -- is this a question of leadership for us to be more expeditious, perhaps like folks overseas, or is this just a failure of why we are not as equipped as they are? Do you think there is any reason why we can't be? Or you just think --

Mr. McDowell. So many thanks to Congress for passing the Digital TV Act of 2005, and that opened the door to the last major spectrum auction we had, which was almost 5 years ago, in 2008. That actually helped us leapfrog other nations. But in the past 4, 5 years, we haven't had any major auctions, and we need to get on to that.

Mr. Stearns. That is what I hear when I talk to other countries, that they seem to be ahead of us. And so we just wonder whether it is our leadership here or it is whether -- what can we do?

Let me move on here. Commissioner Pai, the July 2012 PCAST report suggests that the new Federal spectrum architecture is that the norm for spectrum use should be sharing, not exclusivity. Comparing the track records for sharing and exclusivity, which approach has driven more investment in our wireless networks?

Mr. Pai. I think, Congressman, without question, it has been the latter approach, clearing exclusivity --

Mr. Stearns. Exclusive is much more.

Mr. Pai. Correct.

Mr. Stearns. Right. And with that in mind, it is worth more all

the time?

Mr. Pai. I agree. And that is why I think it should be our priority when it comes to spectrum policy in the Federal spectrum area.

Mr. Stearns. Okay. Mr. Genachowski, several of the major wireless providers have joined efforts to work with the Department of Defense on the testing of several of the systems identified in the NTIA's 2012 report. It appears it is costly, time consuming to relocate, and the DOD seems to be not cooperating and negotiating well with them.

I guess the question is, have you followed this at all? What is your status or --

Mr. Genachowski. Yes. You are asking about the 1755 band?

Mr. Stearns. Yes.

Mr. Genachowski. Yes. This is an area, there is a tremendous opportunity to move forward with testing around different bases. My understanding is that the DOD and the wireless industry are in what I hope will be the final stages of negotiating the details of the arrangement. I think it is good for all the parties to hear that there is bipartisan desire to move this process quickly so that we can test the ideas and free up spectrum in that band and do it in time to pair it with the other spectrum that Congress has required us to auction by, I believe, 2015.

Mr. Stearns. We were just told about a month ago things seem to have come to a grinding halt. Are you familiar with that?

Mr. Genachowski. My understanding is that it is not moving as

quickly as we would all like. It has not halted and that there is negotiations back and forth. Again, I think it is helpful for everyone to know that there is strong desire in Congress to see this done.

Mr. Stearns. Thank you, Mr. Chairman.

Mr. McDowell. Mr. Chairman, I would like to thank Congressman Sterns for his service, and we are going to miss you.

Mr. Stearns. Thank you.

Mr. Rush. Mr. Chairman?

Mr. Walden. Just a second. Just saying we all concur with that statement. He has done a terrific job in this committee for many years, in this subcommittee, and his leadership is greatly appreciated, and we are going to miss you.

Mr. Stearns. Thank you, Mr. Chairman.

Mr. Walden. Mr. Rush has asked to be able to ask another question or two. And I have yielded.

Mr. Rush. Thank you, Mr. Chairman. Thank you so much for your consideration.

I want to say to Cliff, it has been a pleasure sitting with you on this committee. We have not agreed on anything yet, but it has still been a wonderful, wonderful pleasure serving with you.

Mr. Stearns. If the gentleman would yield.

I think we had a privacy bill that we were working on together and a data security for a while when you were the chairman of the Commerce, Consumer Protection and Trade.

Mr. Rush. There was some agreement, not too much.

Mr. Walden. I will try and intercede.

Congressman Sterns, would you agree that Mr. Rush should have another minute to ask another question?

Mr. Stearns. Yes.

Mr. Rush. Fine gentleman.

Mr. Walden. Mr. Rush for another minute or so.

Mr. Rush. One issue that doesn't get much attention, and I want to thank Commissioner Clyburn for her excellent work, is the exorbitant prison phone rates. As a matter of fact, it has taken this Commission 9 years and some months to rule on the right petition. That petition would cap prison phone rates at reasonable levels. It shouldn't cost more to make a cell phone call to Singapore than it is to receive a long distance call from a loved one in prison.

Does the Commission intend to issue a notice at the next Commission meeting to move forward with the right proceeding?

Mr. Genachowski. Thank you for that question. That proposal, I believe, is on circulation and is being actively considered by the Commission and hopefully will be resolved soon.

Mr. Rush. Yes or no?

Mr. Genachowski. It is a yes, as quickly as possible.

Mr. Rush. Thank you. Thank you, Mr. Chairman.

Mr. Walden. Thank the gentleman.

Mr. Rush. Yield back.

Mr. Walden. I am happy to accommodate his additional request.

I think that concludes our opportunity today. We appreciate the

work of the Commission, and your testimony helps guide us in our understanding how the law it is being implemented. The record will be open for 10 days for additional questions from our members who maybe didn't get a chance to offer them or think of a few others after the hearing. So we appreciate again your work, look forward to continuing the dialogue as we go forward to create jobs and innovation in America across all the spectrum and all the bands. Thank you.

The committee now stands adjourned.

[Whereupon, at 12:45 p.m., the subcommittee was adjourned.]