

Prepared Testimony of Thomas DeReggi
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Hearing on:

“H.J. Res 37, Disapproving the rule submitted by the Federal Communication
Commission with respect to regulating the Internet and broadband industry
practices”.

Before the Subcommittee on Communications and Technology

Wednesday, March 9th, 2011, at 10:30am

RM 2123 of the Rayburn House Office Building

Chairman Greg Walden, Ranking Member Anna G. Eshoo, and Members of the Committee:

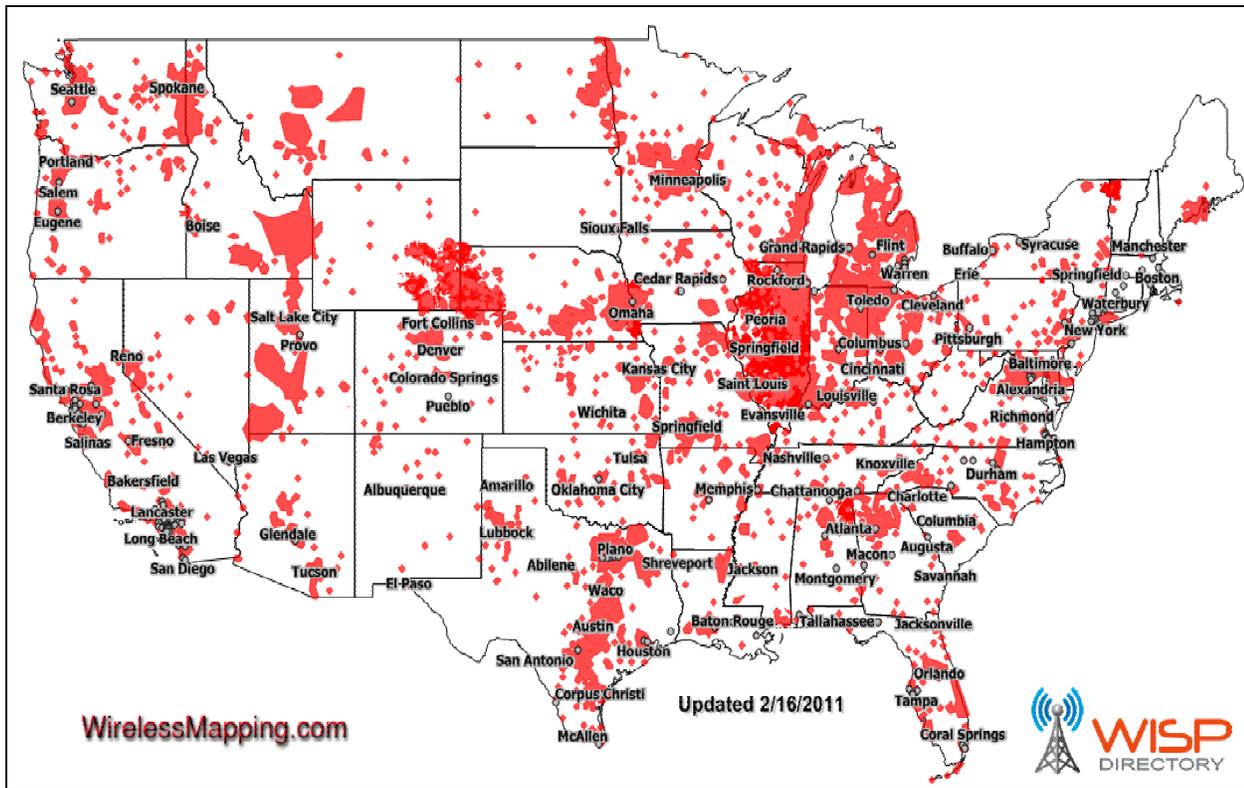
Thank you for the opportunity to testify and contribute. I consider it a great honor.

BACKGROUND:

First, a quick review of my background. In 1996, I started out reselling DSL, and in June 2000, I formed RapidDSL & Wireless, Inc. RapidDSL is a “grass roots” independently owned and financed Fixed Wireless Broadband Access Provider. We serve approximately a 30 mile radius around Washington DC. We’ve proven many case studies, including Urban, Rural, Served, Unserved, Business, and Residential models, competing against the toughest competitors. I sat on the ISPCON advisory board from 2003-2005. For 4 years, I had been elected to the board of WISPA, and the acting Legislative Committee Chairman until my resignation Summer 2010. I’ve been intimately involved in all aspect of my business.

Second, a quick review of the WISP industry. The WISP industry is primarily made up of many small independent companies, serving both competitive markets and unserved Rural America. WISP’s national combined footprint has potential to cover over 75 millions Households, 71% of America, as shown in the map below and data provided by Brian Webster of www.wirelessmapping.com. A Geographical environment can determine speed capability of wireless technology. In heavily treed areas speed could be limited to as low as 3mbps shared between 50 households, whereas in Line of Sight areas, speeds as high as 80mbps to a household

are possible. The Internet is not just about ATT, Verizon, and Comcast. WISPs ARE RELEVANT.



Testimony:

I'm here today to show my support for H.J. Res 37, and I beg the House Sub-Committee to overturn the FCC's recent Net Neutrality Rulemaking. It is my belief that the FCC overstepped their authority to address a problem that didn't exist, at the detriment of our industry. If the Net Neutrality rules are allowed to continue, I am certain that it will (1) result in fewer Jobs, (2) stifle innovation, (3) reduce investment, (4) cause uncertainty in the industry, (5) distract WISPs from building networks to all Americans, (6) increase government spending, (7) create unnecessary liability, (8) drastically increase legal costs, (9) degrade subscriber's performance,

(10) increase subscription fees, and (11) possibly put some small ISPs and WISPs out of business. These side effects are opposite of the National Broadband Plan goals.

Regulation and Net Neutrality just makes jobs for Lawyers. What America needs are more jobs to expand Broadband Access to All Americans. Community based Jobs that sustain and empower common folk into ownership roles and high-level positions, as well as jobs in the trenches of the trade. Locally owned WISP startups create that.

The American people don't need regulatory Band Aids. They need true competitive environments that give consumer choice. Foster competition between Access Providers, and the consequence will be open Internet content automatic. Net Neutrality regulation is a foundation to build monopolies, and not necessary in policy that is targeted to build a competitive industry.

Internet providers need support from policy makers, not more regulatory roadblocks. Net Neutrality is just one more roadblock to slow down Internet providers. The uncertainty and liability to provide service is getting so bad, I have to reconsidering whether it's wise to continue investing money.

The FCC Rules are flawed for a number of reasons.

1) The rules imposed on all broadband networks, inappropriately included provisions to protect consumers right to access Advanced Broadband applications like streaming video over basic broadband. Broadband networks were designed to deliver broadband, not Advanced Broadband. Provisions to protect Streaming Video access should have only been imposed on advanced

broadband networks. Why should a Broadband provider be forced to rebuild a network to Advanced Broadband standards, if there is still a market for their pre-existing broadband offering?

2) The rules inappropriately bundled Fixed Wireless providers in with Fiber wire line providers, completely ignoring the fact that Fixed Wireless has vastly different dynamics, which demand special consideration. But yet, the rules had a double standard that gave Mobile wireless carriers special consideration.

3) “One Size Fits All” doesn’t work. I wish I could say that the Internet was that “simple”, but it’s not. The Internet is complicated. The rules as written don’t even begin to scratch the surface of the many variables to consider in an ever-changing dynamic industry. I see no way static regulation could ever keep up with the Internet industry.

4) Rules addressed what could happen rather than what did happen. What did happen is that a content provider (ESPN360/Disney) discriminated against Access providers, preventing all customers of specific access providers from accessing the content. This behavior was far from neutral, but FCC rules failed to address this serious issue (content neutrality) in its rulemaking.

5) The Rules unjustly entitle consumers and content providers to things that they had no legal right to claim entitlement to, free reign of someone else’s private network, but yet left the Access Provider to foot the bill.

- 6) It's not your network! I designed, built, and paid for my network. It's MY NETWORK, and everyone else can't have it. It doesn't belong to the government, content providers or consumers. They aren't the investors or stockholders. I offer a service, and if someone wants access, they pay for it. It's that simple. Why should content providers be exempt, if they are a heavy abuser of the network?

- 7) Free Speech- How come I can't distribute content on Network television to address the public anytime I want for free? Is that preventing free speech? No, because resources are limited and using the airways are expensive. It's no difference for Broadband Access. Wireless networks have limited resources, and there is a real cost to deliver broadband.

- 8) Areas with only one provider - If policy makers are worried about areas where there is only one provider, then it would make sense to impose rule making to apply to circumstances where there is only one provider. Everyone else should not have to be hindered. I'm not a monopoly. I don't have market power. I'm too small to enact anti-trust anti-competitive behavior. I should be exempt, because I don't fit the profile.

- 9) Streaming HD Video is the killer, transferring enormous amounts of data for a long sustained period of time. Many ISPs don't want to charge for usage, because in some cases, the bill would be so high, many consumers would never pay it. As well tracking usage is resource intensive and many ISPs' designs don't allow for tracking it. Many ISPs don't want to block the Streaming protocols, because there are many acceptable uses

of streaming that only stream for short periods of time. For example, YouTube to play a short 30-second clip. Instead, what ISPs do is look for pattern of sites that have a large number of connections that stay open for a long period of time. In these cases it infers a content provider is marketing and delivering services that sustain video streaming for extended periods of time, a service that may not be allowed under AUP or supported on some lower bandwidth Access Networks. An example of this would be NetFlix selling on-demand HD movies. The truth is NetFlix has no way of knowing what the end user's ISP's AUP is. The appropriate action might be to simply block NetFlix all together. Just like blocking the source of a spammer, instead of all Email. This would be reasonable network management, but could easily be misinterpreted by lawmakers as anti-competitive behavior. The portions of our network that can deliver 5-30mbps to the home wouldn't have NetFlix blocked, but portions of our network that had a community that had to share 3mbps likely would have NetFlix Blocked.

10) Can Wireless Compete with Cable (Comcast)? A DOCSIS 2.0 Hybrid Fiber Cable System has a hard limit of 43 meg down and 10 meg up at the Fiber node that distributes to the coax used for the consumer connections. There are anywhere from 500 to 2000 coax subscribers engineered in to the network design for each fiber node. So in reality they are using a 43 meg downlink for a minimum 500 customers. When you look at a Wimax or Airmax Sector and assume say 24 meg throughput delivered from that radio as a conservative estimate, most WISP's will not put any more than 60 or so customers on that sector. That in theory gives a subscriber 40% of the total radio throughput where a DOCSIS 2.0 node that maximum a customer will get is 8% and as low as 3.65%.

Conclusion:

I have pointed out numerous reasons why the FCC Net Neutrality rules are inappropriate and should be overturned. However, do not misinterpret this testimony to mean that WISPs don't support the principles of Net Neutrality. In most cases, I have observed that WISPs have operated their networks in an Open and Neutral manner, except in severe cases of limited network resources that demanded reasonable network management. As well, we feel it's important that consumers basic right of Free Speech continues to prevail. We simply don't believe regulation is the answer.