

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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Opening Statement of Rep. Henry A. Waxman
Ranking Member, Committee on Energy and Commerce
Markup of the “Jumpstarting Opportunity with
Broadband Spectrum (JOBS) Act of 2011”
Subcommittee on Communications and Technology
December 1, 2011

Mr. Chairman, I want to comment on both the process that brings us here today and the substance of the bill before us.

The bad news is that the process has broken down and the substance is in need of serious repair.

The good news is that both are fixable.

We feel Democrats have not been well treated in this process. During the spring and summer, there were many staff discussions and our ranking member, Ms. Eshoo, met often with Mr. Walden. When these discussions intensified in September, I also became personally involved.

We made a lot of progress. When Ms. Eshoo and I met with Mr. Walden on October 4, we had narrowed our differences to four member-level issues. We gave Mr. Walden written proposals on two of these issues, and he promised to give us language on a third, the governance issue.

But then the Republicans abruptly stopped talking with us. They did not respond to our offers or give us their language. We were told they were going to negotiate with Senator Kerry on the Super Committee, not us. I didn't like that answer, but I understood it.

I wrote, as required by the law, to the Super Committee that, as they look at all the issues that are within our Committee's jurisdiction in dealing with the deficit, this area is one area they should look at, but I had hoped before they even reviewed the money part of it, that they would have a bipartisan compromise presented to them. Despite our requests to put off this markup and resume talks, we've been told that we don't have the time to do this.

But to go forward without further discussion is shortsighted: we can move this legislation a lot faster if we work together than if we fight with each other.

Turning to the substance, there are only a few issues that are unresolved, but they are significant.

We hope you will meet us halfway to close them out.

On the plus side, you have made a big step by allocating the D-block to public safety. One of the stumbling blocks to an agreement has now been removed.

But on four other key issues, we are still far apart. These are governance, unlicensed spectrum, auction eligibility, and funding levels.

Democratic staff prepared an excellent memorandum that summarizes these issues, and I ask that it be made part of today's record.

First, unlicensed spectrum. Super Wi-Fi is emerging as the defining digital spectrum resource for this decade and beyond. We are not asking that the FCC allocate broadcast spectrum for super Wi-Fi, but we believe it is important that the agency retain the flexibility to do so, if necessary.

Second, auction bidding. We don't want to preclude the super carriers – Verizon and AT&T – from bidding, but we do want to make sure that the FCC can ensure that competition survives.

Third – and perhaps most important – governance. Our members stand squarely with the public safety community and support reallocation of the D-block. But it would be foolhardy to set up a network with a faulty governance model. The Republican approach is cumbersome, bureaucratic, and will lead to a patchwork of 50 separate state networks. It will doom us to repeat the mistakes of the past.

We would rather work these issues out than fight them out, Mr. Chairman. That is why we are going to hold off offering many amendments today. We hope you will return to the negotiating table after today's markup as we move to the full Committee.

This legislation is one of the last pieces of unfinished business from that terrible day ten years ago when planes crashed into the World Trade Center, the Pentagon, and a field in Pennsylvania. We should honor the memory of those who sacrificed so much by coming together to craft a bill we can all support.

There are issues where we have genuine philosophical differences to fight out. This is an issue where we have strong support on both sides of the aisle to accomplish the goals. It seems to me that we ought to work out these differences, reach the compromises, present a bill that we know will be law, and address the concerns that members have.