

**STATEMENT OF COMMISSIONER DEBORAH TAYLOR TATE
AT PRACTICING LAW INSTITUTE ON TELECOM POLICY AND
REGULATION
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Good morning. Thank you for inviting me to be here for the 26th Annual Telecom Policy and Regulation Institute. As I was preparing to speak today, I began to consider what the FCC Commissioners may have said to this group at its first conference 26 years ago. What issues were at the top of the agenda for Chairman Fowler and his colleagues? And, likewise, what will be at the top of the FCC's agenda-- and the industry's agenda-- 26 years from now? Or will there even be an FCC 26 years from now?

In the midst of the present economic downturn gripping our nation and the world, there is one bright spot on the horizon – American technology and the American entrepreneurial spirit, especially in the communications and technology sector, which hold the promise of future innovation, investment, jobs and economic growth.

As I reflect on my time at the Commission, I would like to highlight a few of the historic accomplishments that have taken place at the FCC over the last three years. First, as you know, we completed numerous successful spectrum auctions, two of the largest at \$13 and \$19 billion, which will enable not only more wireless innovations, but also the promise of wireless broadband

deployment. Convergence is now in the past. Our cell phones are movie theaters; the cable company is providing telephony; and everyone is in the broadband business. I am proud to have been part of the creation of the first-ever Public Safety and Homeland Security Bureau within the Commission. We also implemented numerous recommendations from both the 9/11 Commission and the Katrina Commission to enhance the safety and security of all Americans. We set stringent rules regarding E911 services with more granular location requirements and required more closed captioning to assist persons with disabilities. And I would be remiss if I did not mention the FCC's Rural Healthcare Pilot Program which will deliver \$216 million over the next three years to telehealth projects all across rural America.

I am very proud of the adoption of what have been called the most historic steps in 30 years to encourage more women and minority ownership in media interests. In fact, we did more than adopt an Order, we actually hosted an all day "Access to Capital Conference" in New York, hosted by Erin Burnett of CNBC, with major financial institutions and Wall Street financiers to connect them with potential female and minority buyers. I hope that the FCC will make this an annual event.

But with all of these critical initiatives, perhaps none has been more important than our mission to deploy broadband to every corner of America—

connecting citizens in rural towns with major metropolitan cities, and giving children in every corner of America access to the endless educational opportunities the internet affords. I was pleased to serve as Federal Co-Chair of the 706 Joint Conference on Advanced Services. I strongly believe in the mission of the 706 Joint Board – to ensure that advanced services are deployed as rapidly as possible to all Americans, and to serve as a forum for an ongoing dialogue among the Commission, state regulators, and local and regional entities, regarding the deployment of advanced telecommunications capabilities.

However, it is the market-- not government-- that continues to drive the expansion of broadband. We have seen business case scenarios through innovative public-private partnerships, such as Connected Nation and Connected Tennessee. Government has an important role to play as well, from the E-rate program that has connected schools across America, to Chairman Martin's proposal to expand lifeline and linkup services for low-income Americans to include broadband services—the primary communications tool of the day.

I want to call on the FCC, Congress, and industry to continue the mission of deploying broadband to every corner of America-- and to share my perspective on a few of the other key issues the Commission has tackled over the past year.

I. Importance of Broadband

The importance of broadband to our national and international communications and commerce cannot be overstated. More than ever broadband is crucial, not only for the ICT sector and continued investment, but crucial to e-commerce, e-health, e-education and even “e-green” energy efficient initiatives. We are all in a position to help ensure that all our citizens have access to these advanced services today as well as in the future.

While the U.S. leads the world in broadband connections – 100 million at the beginning of 2008. I want to assure you that whether the issue is the recent and very successful \$19 billion spectrum auction, or support for a rural healthcare initiative, or numerous other issues across all platforms – all of these underscore the Commission’s efforts to promote broadband to all Americans, regardless of their race, gender, income, or zip code. I try to keep this goal at the forefront of my decision-making at all times. Whether considering rules for phone service, cable service, terrestrial wireless service, or satellite service, the overarching and critical communications goals of the Commission include the promotion of broadband deployment.

Why is broadband access so important? Even if we looked only at the economic effects, the gains from further broadband deployment would be enough to get our attention. A recent study by Connected Nation estimated that increased availability of broadband across the U.S. would have a positive economic impact of \$134 billion. But of course, this is about more than just dollars. A broadband connection to the World

Wide Web literally is a connection to our very wide world. Adults can attend class at a university across the country while holding a job across town. They can also participate in local civic affairs or even get involved in politics at the national level.

The internet has launched entirely new business models. In fact, in just one presidential cycle, Internet advertising has gone from essentially zero to estimates of \$100 million in 2008. In addition, workers can positively impact their productivity and even obtain virtual employment opportunities. Families, no matter where they live, may access healthcare information and healthcare services, such as teledentistry, telepsychiatry and even telesurgery. Such telecommuting for doctors makes the physical distance between provider and patient immaterial, and this ability to shrink distances that isolate our most remote communities makes broadband particularly critical in rural areas. Early in my tenure, I had the opportunity to see first-hand incredible telehealth projects in Alaska demonstrating how broadband communications empower those who are most physically isolated and also provide savings for individuals, hospitals, and our overall healthcare system. In short, broadband revolutionizes how we communicate, how, where and when we work, how we educate our children, the delivery of healthcare and public safety, as well as how we entertain ourselves.

II. State of Broadband Investment

In the wake of global rankings which paint a rather negative picture of broadband deployment in the U.S., let me say a few positive words about how far we have come. Internet service providers should be applauded for their investment and regulatory policy should continue to encourage and incent continued investment in broadband deployment. The Telecommunications Industry Association estimates that broadband spending was \$15 billion in 2007 and that this figure will rise dramatically over the next couple of years, to \$23 billion by 2010. More than 99 percent of the US population lives in zip codes where a provider serves at least one customer.

Broadband via DSL is available to 82 percent of the households that receive service by a local exchange carrier, while broadband via cable modem is available to 96 percent of households that receive cable television. Virtually all of our schools have high-speed Internet connections, and have had them for a number of years. Workplace broadband connections are more and more common.

This investment is part of the revolution occurring in the broadband marketplace as true convergence has become a reality, with the Internet breaking down the barriers that previously separated networks. Telecommunications companies are deploying next generation fiber networks. Cable operators continue to upgrade their networks to enable them to offer digital video, broadband and voice service. Wireless carriers are upgrading their networks and acquiring spectrum to offer advanced mobile services and even video in the palm of your hand.

Personally, I hope the Commission will continue to pursue deregulation aggressively. Although the government can play a constructive role in helping to facilitate competition, I prefer to let the market determine its own course. Just last year, we benefited from over \$70 billion in broadband investment, robust industry competition and cooperation, and unprecedented consumer options in this dynamic marketplace.

For these reasons I do not believe the Federal Communications Commission, or any other policymaking body, should place its thumb on the scale to influence or dictate the next technology adopted. Not long ago people claimed that 56k modems would far exceed the speed requirements of any user. Today, Comcast and Verizon, both major providers in the U.S., offer one thousand times that speed to residential customers, and the exponential growth in speed is not likely to stop anytime soon. We can thank the market, not government, for this result.

In 2007 alone \$225 billion was invested in networks, and \$3.5 trillion in revenue was generated. 3G and 4G wireless networks continue to expand, with 251.5 connections today, and a projected 1 billion connections and \$1.3 trillion in wireless revenue by 2011. Wireline broadband networks continue to explode in growth, pushing speeds up and fiber to the end-user. For example, last year we saw a 24.4% increase in internet access revenue, even with dial-up revenue

declining. We have real results that we can look to as evidence that deregulation has had a tremendous effect.

III. Video Franchising

In an effort to see broadband services expand to every corner of America, the Commission continues to adopt orders to facilitate greater cross-platform competition among providers. In March of last year, the FCC adopted an order that requires Local Franchising Authorities (LFAs) to render a decision on a new entrant's application within 90 days. This provides new entrants, primarily telcos like AT&T and Verizon, a greater degree of certainty as they expand into new areas of the country. By paving the way for new entrants, we encourage competition between telcos and incumbent cable operators which in turn spurs competition for greater service offerings, bundles of services – now even triple and quadruple play – that result in lower prices for consumers.

IV. Internet Safety

Of course, I cannot discuss the explosion and dazzling benefits of broadband deployment without also highlighting some of the very real risks the internet poses—most importantly, risks to the physical and emotional safety and well-being of our children. While we have all used the phrase “digital divide,” now we need to recognize that there is a new digital divide, one that is

generational rather than economic. Like many parents, I never really thought past the benefits the Internet offers – from research for homework, to the wonders of telemedicine, to distance learning opportunities, to creating and producing your own content online. However, we must also realize that this technological explosion of access also presents challenges and very real dangers.

I often remind parents that the internet is no longer just an infrequently-accessed research tool, but a ubiquitous aspect of our children’s daily lives. They live in a digital world. An entirely new language has developed out of this explosion of technology—we “IM,” “blog,” “friend” people on Facebook, and use “twitter” to stay in touch with acquaintances. Children participate in “chatrooms,” post and read messages in social networking sites. However, even seemingly innocuous activities such as joining an online community or participating in online gaming can provide predators access to build relationships with our unsuspecting children.

A 2007 Pew study showed that 28% of online teens have created their own blog. Twenty-seven percent (27%) maintain their own webpage. Thirty-nine percent (39%) share their own artwork, photos, stories or videos online. Forty-one percent (41%) of teens who use MySpace, Facebook, or other social networking sites send messages to their friends everyday through these sites — double their e-mails. Today’s U.S. college students grew up with the internet--

20% began using the internet between the ages of 5 and 8. Seventy-three percent (73%) of students say they use the Internet more than the library.

With the explosion of educational resources available online, one might think parents would be 100% pleased with the internet's role in their children's lives. But surveys show just the opposite: a late 2006 survey that showed 59% of parents think the internet has been a totally positive influence in their children's lives-- down from 67% in 2004. You might find it alarming that one of the top reasons for college drop-outs in the U.S. is online gaming addiction—such as *World of Warcraft*—which is played by 11 million individuals worldwide.

Even more concerning, the threat is no longer contained to the family computer. It is in the palm of your child's hand. Given the fact that approximately 60% of American teens have a cell phone, and that cell phones are being marketed to children as young as 6, I have, and will continue to, challenge telecom carriers to adopt initiatives to provide curriculum and education regarding safe use of their products—including internet safety, and the prevention of access to inappropriate websites by children.

In fact, I have taken this message to my international colleagues from APEL TEL in the Pacific region to the West Africa Roadmap to Opportunities Conference. Just three weeks ago, I was honored to have been invited by

Secretary General Hamadoun Touré to participate in the global launch of the Child Online Protection Initiative at the International Telecommunications Union (ITU). (www.itu.int/cop) Ministers and delegates from every nation are considering best practices for protecting children from predators, cyberbullying, pornography, child trafficking, and many other threats.

Earlier this week I was so pleased to see the 57 entities sign a call to action laying out a framework for a comprehensive national broadband strategy. While child internet safety was not included in their list, I continue to be hopeful that this will become a priority for the new Administration. I hope that the new administration will continue to emphasize the importance of providing children with all of the opportunities the Internet offers, in an environment that protects their physical, emotional, and mental well-being.

Other Critical Issues Considered by the FCC in 2008:

V. DTV

Of course, one of the most pressing issues facing the FCC at this time is the February 17 DTV Transition—just 74 days, 8 hours away. I, along with my colleagues, have been touring the country visiting cities with the highest percentage of over-the-air households. I have traveled to major cities like Chicago, where I spoke to over a thousand seniors at Mayor Daly’s Annual Seniors Conference, and to small towns like Auburn, Alabama, where I urged

college students to help their parents, grandparents, friends and neighbors to help order and install converter boxes. In keeping with my mission of urging preparation from every group I speak to, please go to www.dtv.gov for more information!

VI. 700 MHz

In March of this year, the FCC completed an auction of the 700 MHz spectrum and raised more money for the U.S. Treasury than any auction in the Commission's history, about \$19 billion. That's more than the very successful AWS auction we held in 2006, and not counting the sale of those AWS licenses, more than all previous auctions combined. We've also made a significant portion of this very valuable spectrum – 42 megahertz in all – available across small and medium-sized geographic service areas, helping small and rural providers. In fact, 75 parties won licenses to serve 305 rural markets in this latest auction, and a party other than the nationwide incumbents won a license in every market in this auction.

VII. USF Reform

During my time at the Commission, I have had the privilege of serving as Federal Chair of the Joint Board on Universal Service. From holding national hearings to participating in forums at the state and local level, to testifying before Congress, I have tried to outline and champion meaningful reform of the

Universal Service system. A month ago, we issued a Further Notice of Proposed Rulemaking on the Chairman's USF and Intercarrier Compensation reform proposals, as numerous Members of Congress, industry, and state and local officials felt it was prudent to seek comment on his proposal. I applaud the Chairman for putting forward a wide-ranging, comprehensive plan, and am also pleased that we put that plan out for comment. While reform is critical, we did not want to make a decision in a vacuum. I felt confident that we would be able to start down a path toward meaningful reform this month. I continue to believe there is a great deal of bi-partisan consensus, both among industry as well as my colleagues at the FCC. I would like to publicly express my appreciation for the efforts of all stakeholders, who continue to develop long-term solutions to these difficult issues. While I would still like to have the opportunity to vote on a plan by the end of this year, it is my sincere hope that the next FCC builds on the efforts of Commissioners at both the state and federal level have made, and the consensus that has been built, keeping in mind that the overarching goal of reform should be deploying broadband access across America, especially to the rural, low-income, and underserved areas that can benefit from broadband the most.

VIII. White Spaces

One of the more promising areas of innovation cannot even be seen – the “white spaces” that represent the unused portions of spectrum in the bands presently allocated to TV broadcast operations. The item adopted last month advances us on a path to facilitate use of the white spaces for new wireless services, including broadband services, for all Americans.

This was a first step only, one that hopefully will move us toward modernization and more effective use of the unused portions of this spectrum. Indeed, these are revolutionary times in an evolutionary industry, with the promise of even yet unseen innovative devices on the horizon. Many visions exist for how unlicensed use of the white spaces will evolve, but evolve they certainly will. Hopefully, the item we recently adopted will help facilitate the deployment of unlicensed devices and services that enable consumers to enjoy more television programming and video than ever before, and that will allow families to transfer and network information, photos, and much more across multiple devices, technologies and platforms in their homes. Similarly, communities of users may find they are able to communicate seamlessly through mesh networks rather than traditional phone lines. Finally, as someone who has championed rural America, I hope that the Commission’s recent action will facilitate services, including broadband, to rural areas and thus help reduce the digital divide that is far too prevalent in rural communities across our nation.

While the use of white spaces by unlicensed devices holds great promise and I am excited about their potential, I also have several significant concerns that I believe we should have addressed and encourage a future Commission to re-address including a complaint process to rectify interference issues, provide opportunities for higher power fixed operations for rural backhaul, and even licensing a portion of this valuable national asset, especially in rural areas.

IX. My Issues

Many of you know that I have been a voice for children and families throughout my professional career. One of the things I am most proud of is the being referred to as the “Children’s Commissioner”—following in the footsteps of my dear friend, former FCC Chairman Dick Wiley. I believe that many of the issues I have fought to highlight— from childhood obesity to online safety to increasing family-friendly programming—will continue to receive national focus, and I will continue to speak out. I am pleased to have provided leadership on the Joint Task Force on Childhood Obesity, which, along with the Council of Better Business Bureau’s (CBBB) Children’s Food and Beverage Advertising Initiative saw 15 of the nation’s largest food and beverage companies pledge that at least 50% of their ads directed at children will be for better-for-you foods. Media companies including Sesame Street, Disney, Discovery Kids, Nickelodeon, and The Cartoon Network, have agreed to ban the

use of all of their loveable characters in ads for unhealthy foods. I also want to commend Ion Media and Veggie Tales, produced in my hometown of Nashville, Tennessee, for pledging to totally ban all ads for unhealthy foods on their network. In October, Vanderbilt hosted a national summit in which I was pleased to join with national experts, as well as many media companies and other stakeholders to continue to focus on this national health epidemic. Two weeks ago I was the keynote speaker at the 30th Annual Promotion Marketing Association Law Conference. And just yesterday, I was thrilled to see Nestle, the world's largest chocolate manufacturer, announce its pledge to advertise only "better-for-you" foods to children under 12. Again, I encourage the FCC and the new Administration to continue to focus on the fight against childhood obesity. I also advise relevant industry representatives to continue to take voluntary, self-regulatory steps regarding responsible advertising and reformulation of products, so that heavy-handed government regulation is not necessary. As I say to CEOs, it is not just good for our children; it is also good for the bottom line.

X. Conclusion

I know that later today you will hear from several distinguished panelists on topics such as whether additional consumer protections are necessary in

competitive markets (an issue the FCC has certainly struggled with during my tenure!) and the overall future of telecommunications.

I hope I have brought a dose of common sense and of the real world impact our actions have. I have always tried to take into consideration that decisions I make not only affect the particular parties or overall industry, but also small business, universities, and in the end all consumers-- who end up footing the bill for any regulatory costs we impose on private companies. This is at the heart of my philosophy of regulatory humility.

Additionally, I have tried to be a voice for children and families, millions of real moms and dads, grandparents, and caregivers trying to raise children in this age of media pervasiveness and on-screen overload. Just as new languages have developed so have new risks, from the epidemic of child obesity, to cyberbullying, to the tragic practice of child trafficking and predatory behaviors online. From small town America to the International Telecommunication Union in Geneva, Switzerland, I have tried to create an open dialogue cross-platform, so that we are all part of these solutions, from research-based decisions, to tools for parents, to curriculum for digital literacy.

As you know, most of my professional career has been at the state level and thus I have also tried to remind my colleagues and Congress that our government is indeed still one based on federalism and that the

Telecommunications Act clearly envisioned states having an important role in implementation. Prior to the creation of the FCC, states were primarily responsible for consumer protection, rights of way, negotiated with providers, and of course it is states that still truly know how competition and services are being provided. Thus whether local public safety or the state e911 directors, mayors or governors, I have tried to bring a unique perspective that I truly hope will continue to be heard and considered by the new Commission. Broadband is a perfect example of creative public-private partnerships and even providers working closely at the local level, and thereby is achieving real results, rather than enforcing a top-down approach.

Most every major policy decision of the FCC involves weighing competing interests. In shaping public policy, we more often than not share laudable goals, but frequently differ on how to achieve those goals. In making many of the tough decisions I have faced over past three years, I have attempted to come to principled decisions after listening to all sides. I have tried to set a standard of openness and surrounded myself with staff who exhibited those same qualities.

In my opinion, wires and radiowaves are not and should not be political, so I have tried to review each issue, order or item beginning with my now tattered copy of all the applicable statutes, asking if this is indeed within our

legal authority, and if so, is this an appropriate time for government action.

Often I have encouraged parties to negotiate a marketplace solution themselves, or held large mediation-type sessions or even begged you for industry resolution or voluntary action. I applaud those of you who responded and often were met with at least some success. I have tried to applaud those actions regularly through official statements, speeches, and of course on the FCC website.

I thank you all for your ardent, and sometimes even aggressive, representation of your clients. I would have expected no less. We are all officers of the court, an honorable profession, and I hope you will remember that I tried my best; I held myself and you to the highest standard of professional responsibility that the industry and the American citizens demand. It has been an honor and a privilege to work with you all. Thank you.