

Statement of FCC Commissioner Mignon L. Clyburn
Senate Committee on Commerce, Science, and Transportation
Oversight of the Federal Communications Commission
Wednesday, March 18, 2015

Chairman Thune, Ranking Member Nelson and members of the committee, good afternoon.

What a privilege it is for me to come before you today. It has been nearly three years since our last appearance and it is amazing just how much has changed. I had the distinct honor of serving as Acting Chairwoman for 5 ½ months, and since May of 2012 this nation has witnessed dynamic growth and tremendous innovation: faster broadband speeds, an apps and services explosion, fresh competitors entering the market and a seemingly endless demand for spectrum. According to industry estimates, broadband providers invested \$69 billion in network infrastructure in 2012, \$72.2 billion in 2013 and \$75.2 billion in 2014.

But none of this phenomenal growth happens organically. The FCC, more often than not on a bipartisan basis, has worked hard to enable this magnitude of development. These sometimes difficult decisions, by way of policy, have promoted and made possible incredible levels of investment and competition and while I would quickly exceed my five minutes if I were to identify every item the FCC has enabled to that end, I would like to highlight just a few.

One thing that sets our great nation apart is our unwavering commitment to universal service. Regardless of where you live, we stand by that obligation to you. The FCC reformed its universal service and intercarrier compensation programs and put this country on a path to close the broadband gap. We take it for granted now, but this decision was an incredibly significant feat involving some difficult moments that followed a decade of good faith efforts which faltered. Since 2012, I am proud to say, the FCC -- through its reforms -- has authorized funding to serve over 630,000 locations, or approximately 1.7 million people, in 45 states, plus Puerto Rico, with fixed broadband for the first time, provided mobile coverage to tens of thousands of road miles and connected over 50,000 people living on Tribal lands with access to mobile broadband. And we are poised to offer incumbent carriers the right to accept funding to deploy broadband within the states they serve very soon. For Americans living in these states, broadband access will be life changing.

We took action to close connectivity gaps within our schools and libraries and ensure that rural health care providers have access to the telecommunications and broadband services their communities need and deserve.

The one universal service program that has yet to be reformed, however, is Lifeline -- our only adoption program which was established in 1985 and has been stuck there ever since. I am proud that this FCC took a bold step in 2012 to clean up a program that lacked the necessary checks and balances needed to curb waste, fraud and abuse. We took sweeping action to combat major deficiencies and this has resulted in savings to the program and consumers of over \$2.75 billion. That bears repeating. This administration restructured this single universal service program to the tune of \$2.75 billion in savings, and it doubled down on our commitment to enforcement by proposing forfeitures of over \$90 million for providers we found were not following our rules.

While these accomplishments are incredibly significant, we refuse to rest on our laurels. We need a new, restructured, recalibrated, modern-era Lifeline program that bears no resemblance to the program we have today. At AEI last November, I outlined five principles to guide Lifeline reform, all which I believe are necessary to protect the integrity of the fund, bring dignity to the program, and encourage broader participation and more competition. Key to any reform is removing the provider from determining whether a customer is eligible. Having the provider determine eligibility has created negative incentives, led to significant privacy concerns for consumers, and increased administrative burdens that have discouraged more providers from participating. We also need to demand more “product” for each dollar of universal service support spent. One little-known Lifeline fact: Of all the federal beneficiary programs from Medicaid, to Supplemental Nutrition Assistance Program (SNAP), to the National School Lunch Program, to public housing, Lifeline has the smallest level of annual expenditures. At \$9.25 a month, it reaches the greatest number of households of any program except Medicaid. If reformed properly, this program could once and for all enable consumers to have true robust broadband and prove to be one of the greatest investments this government could make.

While I generally prefer competition over regulation, the truth is that marketplace nirvana does not always exist. There are times when the communications ecosystem fails to properly address consumer interests and when that occurs, the Federal Communications Commission must step up to the plate.

The alarmingly high rate of calls not being completed to rural areas is one such example. I was proud to adopt an Order while Acting Chairwoman that tackled this unacceptable practice. The FCC has taken a number of significant actions against providers to put a stop to this, but we have much more to do. Rural call completion challenges highlight the need for a regulatory backstop, particularly when the private sector alone is unwilling or unable to resolve a concern that has public safety and business implications.

Another glaring example of market failure and the need for regulatory backstop comes in the case of inmate calling services. A decade after a petition requested relief from egregiously high and patently unlawful fees, the market not only failed to respond, things got worse. Families, friends, lawyers, and clergy paid rates as high as \$2.26 per minute for a call placed by deaf or hard of hearing inmates, plus an endless array of fees, including up to \$3.95 to initiate a call, a fee to set up an account, another fee to close an account, a fee to use a credit card, and even a fee charged to customers when they are refunded their own money.

Regardless of your views when it comes to the accused or the convicted, there are 2.7 million children with at least one parent incarcerated. They are the ones actually being punished by this unjust and unreasonable inmate calling structure. In addition to the anxiety associated with a parent who is absent on a daily basis, these young people suffer severe economic and personal hardships, are more likely to do poorly in school, and all of this is exacerbated by an unreasonable rate regime that limits their ability to maintain contact. Reputable studies show that having meaningful communication beyond prison walls can make a real difference when it comes to maintaining community ties, promoting rehabilitation and reducing recidivism.

We took a critical first step while I was Acting Chairwoman in August 2013 and despite the parade of horrors that opponents to inmate calling services reform predicted would flow – from losing phone service entirely to security lapses — we have witnessed nothing of the sort. What we have seen is increased call volumes of 70%, including one report of a 300% increase, and letters explaining how reforms have impacted their lives. But we are not done and our job remains unfinished unless the intrastate calling regime (where the bulk of the traffic takes place) is also reformed.

We have also adopted significant policies in the wireless market. In March 2014, we unanimously approved licensing and service rules to auction 65 megahertz of spectrum in the AWS-3 bands. This auction, which closed this past January, was the first auction of multiple paired blocks of spectrum the Commission had held in six years. Since mid-2010, we have witnessed explosive consumer demand for mobile broadband services. So this auction was important to give wireless carriers the spectrum they need to meet the demand on their networks.

But it was also important to meet Congress's directives to design an auction that promotes more competitive options for wireless consumers. My colleagues and I agreed on a band plan that included smaller license blocks and geographic license areas and we also agreed to mandate interoperability between the AWS-1 and AWS-3 bands.

Such rules encourage participation by carriers, who may have a smaller service footprint than nationwide providers, yet possess a strong desire to acquire more spectrum in order to serve a particular footprint. This approach promotes competition in local markets and has the added benefit of ensuring that the auction promotes efficient allocation of spectrum to the highest and best use.

Most predicted that increased consumer demand for mobile services would result in robust bidding for the AWS-3 auction. But no analyst predicted that the total amount of winning bids would exceed \$18 billion. In fact, the final gross total winning bids was a record setting \$44.89 billion. The success of this auction was due, in large part, to a painstaking effort to pair the 1755 to 1780 and 2155 to 2180 bands. This effort involved the broadcast and wireless industries, federal agencies and members of this Committee. I commend all stakeholders for reassessing what really matters, finding common ground and doing the right thing for the American public.

We should follow a similar collaborative approach as we work towards finalizing rules to implement the world's first ever voluntary incentive auction. Encouraging smaller carriers to participate is also important to the success of this auction, as we must incentivize broadcast TV stations to take part in the reverse auction. So I am glad large and small carriers developed a consensus band plan that allowed us to shift from large Economic Areas to smaller Partial Economic Areas. We also unanimously adopted a Notice of Proposed Rulemaking that seeks to strike the proper balance between licensed and unlicensed services and accommodate the needs of incumbent services in the TV bands.

It was important to initiate a proceeding to update our Competitive Bidding rules and procedures in advance of the incentive auction. This auction will offer applicants a historic opportunity to acquire substantial amounts of valuable wireless spectrum below 1 GHz. We proposed comprehensive reforms that will enable small businesses to compete more effectively in auctions and sought comment on whether we should do more to deter unjust enrichment.

Finally, I would like to highlight the progress we are making in implementing the STELA Reauthorization Act of 2014. As required under the statute, the FCC has established a working group of technical experts to study and recommend a downloadable security system that can be used in conjunction with navigation devices, such as set-top boxes, to promote greater competition for such devices. The statute requires us to issue a report on this issue by September, and the Commission is hard at work to accomplish this milestone.

I am grateful for the opportunity to appear before you today and look forward to answering any questions you may have on how the FCC can continue to promote greater access to communications technologies and services for all Americans. Thank you.