



# **FEDERAL COMMUNICATIONS COMMISSION**

## **Fiscal Year 2011 Annual Performance Report**

(October 1, 2010 – September 30, 2011)

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# Message from the Chairman

I am pleased to present the Federal Communications Commission's (FCC or Commission) Fiscal Year (FY) 2011 Annual Performance Report. This report details the Commission's progress toward fulfilling its strategic goals and meeting its performance commitments. The purpose of the Annual Performance Report is to increase our agency's accountability by making detailed performance information transparent and accessible to all citizens. Furthermore, please note that the FCC has also just issued a new Strategic Plan for FY 2012 – 2016, available at: <http://www.fcc.gov/encyclopedia/fcc-strategic-plan>. The new Strategic Plan includes revised Strategic Goals for the agency. The FY 2011 Annual Performance Report looks retrospectively and so it reports on the FCC's strategic goals for FY 2011. The FCC detailed those goals in the FCC's FY 2011 Annual Performance Plan issued in February of 2010 as part of the FCC's FY 2011 budget submission to Congress.

The FCC's work centers on communications networks and technology, which can connect our country, increase opportunity and prosperity, spur American competitiveness and global leadership, strengthen our democracy, protect public safety, and in so many ways transform lives for the better. Our mission is to harness the power of broadband Internet to drive economic growth and benefit all Americans.

With each passing day, communications devices and networks become more essential to the fabric of the daily lives of all Americans. They are how we receive news, information, and entertainment; how we stay in touch with our friends and family; how we work at and run our businesses, large and small; how we communicate and coordinate in times of emergency; and how we—and people across the globe—learn about and participate in our government and express our views.

Our country faces a number of significant challenges and opportunities for which communications—and broadband Internet in particular—play an essential role: our economy, education, health care, energy, and public safety, to name a few. If we can harness the power of broadband to tackle these challenges and seize these opportunities, we will make a positive difference in the lives of this and future generations.

This report contains a discussion of the progress the FCC made during FY 2011 in meeting the key challenges facing the agency. A more concise description of the Commission's performance for the fiscal year can be found in the FY 2011 Summary of Performance and Financial Information, located at <http://www.fcc.gov/encyclopedia/fcc-strategic-plan>. At this link, the FCC has also posted its FY 2011 Agency Financial Report, which provides a comprehensive look at the FCC's financial operations for the past fiscal year. I am pleased to note that for the sixth consecutive year, the FCC obtained an unqualified or "clean" audit opinion on its financial statements.



Julius Genachowski  
Chairman  
February 13, 2012

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# ***BROADBAND***

## ***Strategic Goal:***

*Work to ensure that all Americans have increased access to robust, reliable, and affordable broadband with universal broadband as our ultimate goal.*

## ***FY 2011 PERFORMANCE GOALS***

- Enact recommendations in the National Broadband Plan to broaden the deployment and adoption of broadband technologies to all Americans.
- Ensure the nation's broadband infrastructure advances national purposes (e.g. job creation, public safety, consumer benefits, energy efficiency, availability of health services, etc.).
- Ensure harmonized regulatory treatment of competing broadband services, to the extent consistent with the underlying technologies.
- Encourage and facilitate an environment that stimulates investment and innovation in broadband technologies and services.

## ***FY 2011 PERFORMANCE HIGHLIGHTS***

***Enact recommendations in the National Broadband Plan to broaden the deployment and adoption of broadband technologies to all Americans.***

- Those without access to broadband are becoming more isolated from the modern American economy. The latest *Broadband Progress Report* issued by the FCC in May found that approximately 26 million Americans, mostly in rural communities located in every region of the country, are denied access to the jobs and economic opportunity made possible by broadband. While the infrastructure of high-speed Internet is unavailable to those Americans, the FCC report also found that approximately one-third of Americans do not subscribe to broadband, even when it's available. This suggests that barriers to adoption, such as cost, low digital literacy, and concerns about privacy, remain too high. Notwithstanding these continuing challenges, significant progress has been made over the past few years. The private sector continues to invest tens of billions of dollars in broadband infrastructure each year (\$65 billion in capital expenditures in 2010 alone), expanding capacity, increasing speeds, and rolling out next-generation mobile services like 4G.
- The explosive growth in mobile communications threatens to outpace the infrastructure on which it relies. Specifics of this situation were detailed in an FCC white paper entitled, "Mobile Broadband: The Benefits of Additional Spectrum." This technical and economic forecast of mobile broadband market trends detailed the looming spectrum crunch in a concrete, data-driven fashion. Key findings of the paper were that mobile broadband growth is likely to outpace the ability of technology and network improvements to keep up by an estimated factor of three, and within the next five years the spectrum deficit is likely to approach 300 megahertz.

- An important step was taken by the Commission to meet the nation's demand for innovative wireless broadband services by adopting a *Notice of Proposed Rulemaking (NPRM)* proposing that wireless broadband providers have equal access to television broadcast frequencies that could become available in spectrum auctions. The proposed rules would enable television broadcasters to opt to share channels by further tapping the technical capabilities that became available following the nation's historic transition to digital television in 2009. In September, the FCC also announced a 45-day public trial of a database system to identify unused television band channels that are available for unlicensed devices. Unused spectrum between TV stations, called white spaces, represents a valuable opportunity for more efficient use of spectrum because it can be used for unlicensed services. Unlicensed services are a powerful platform for innovation and experimental use. The result of innovation on unlicensed services has already led to a wave of new consumer technologies, including Wi-Fi and other innovations like baby monitors and cordless phones that have generated billions of dollars in economic growth.
- In a March 2011 *NPRM*, the Commission proposed to create a pilot program to evaluate whether and how the Universal Service Fund's Lifeline program could effectively support broadband adoption by low-income households. The pilot would gather data to allow the Commission, broadband providers and the public to identify the most cost effective way to use Lifeline funds to increase broadband adoption and retention among low-income Americans.
- The FCC directed the Universal Service Administrative Company (USAC) to implement improvements in the Universal Service Fund (USF). USAC was directed to freeze the pay of its employees to reduce USF costs; perform a risk assessment of Low Income program operations; follow OMB and Treasury reporting requirements and deadlines; initiate an investigation into USACs accounting of USF fixed assets; identify causes of certain high cost program improper payments and perform corrective action; correct findings uncovered in the FCC financial statement audit; perform a risk assessment of Schools and Libraries program operations; implement actions to save over \$4 million for the Schools and Libraries program; and to develop Lifeline payments based on actual reimbursement claims rather than projections.
- A recent FCC survey found that 80 percent of consumers did not know the speed of the broadband service they purchased from their Internet Service Provider. Even if consumers examine their bills, details about broadband speed often remain unclear. As a result, in conjunction with the release of an FCC report titled "Measuring Broadband America," the agency initiated new consumer resources, including an on-line Broadband Speed Guide and a consumer's guide on Broadband Service for the Home, to help Americans better understand broadband speeds, assess their home needs, choose the right package and continuously evaluate broadband performance. The report found that, for most major wireline broadband providers, actual speeds are generally 80%-90% of advertised speeds or better, although performance varies by technology and service provider. By shining a spotlight on actual versus advertised speeds, the FCC is ensuring accountability, increasing transparency and enhancing competition in the marketplace. If consumers make informed choices, companies will likely invest in new products, services and business models to compete more aggressively and offer greater value.
- Using Challenge.gov as a platform for innovation, the FCC launched a challenge to

promote innovative thinking on the use of cloud computing and to remove barriers for people with disabilities, entitled Lifted by the Cloud: Visions of Cloud-Enhanced Accessibility. Lifted by the Cloud was a national contest, co-sponsored by the FCC, the Coleman Institute for Cognitive Disabilities, and Raising the Floor, that challenged the public to submit short multimedia presentations on their visions of how cloud computing can create new opportunities for people with disabilities. The FCC sought multimedia presentations that showed how the communications and computing power of the Internet could address disability-related barriers in new, exciting ways. A dozen submissions included videos, slide shows, and software applications that conveyed the potential in this area. The hope is that these visions help to inspire technology developers to eliminate disability barriers to communication technologies via the cloud.

- The Commission spearheaded an effort with other U.S. Government agencies to develop a checklist of metrics of broadband adoption and impact on the economy that could be implemented and coordinated internationally. As a mechanism to support the metrics research, the Commission successfully pushed the OECD to take on this project. A plan to develop and move forward with the program was created by the OECD, with workshops in Washington and London scheduled for FY 2012.

***Ensure the nation's broadband infrastructure advances national purposes (e.g. job creation, public safety, consumer benefits, energy efficiency, availability of health services, etc.).***

- The FCC released a report during FY 2011 on the state of broadband connectivity at schools and libraries receiving funds from the Federal E-rate program. This program provides support to help connect schools and libraries to the Internet. The report is based on data from a survey of schools and libraries that examined the challenges they face related to broadband use. The survey found that while almost all survey respondents have some broadband capabilities, nearly 80% of all survey respondents said their broadband connections do not fully meet their current needs. Slow connection speed was the primary reason current Internet connectivity did not meet the needs for 55% of these respondents. This is a growing concern for schools, as 56% of the survey respondents expect to implement or expand the use of digital textbooks in the next two to three years, and 45% expect to implement or expand the use of handheld devices for educational purposes.
- The agency launched an innovative program during FY 2011 for schools and libraries in 14 states, aimed at giving participating students in grades K through 12 off-premises connections to the Internet to increase access to digital textbooks, cutting-edge interactive learning tools, and other innovative wireless technologies. The new FCC wireless pilot project, "Learning On-The-Go," will provide up to \$9 million for schools and libraries selected for the 2011-2012 funding year. The Commission received 94 applications and, in March, issued a public notice announcing the initial selected project participants. The 20 selected projects include initiatives to improve off-campus access to e-textbooks for students; connectivity for netbooks for students living in remote, isolated areas; and access to flexible, online education programs for home-bound students unable to attend classes. Mobile learning devices enable teachers and parents to tailor school curriculum and interactive learning to students' skill sets. Digital textbooks never go out of date and students will have greater opportunities to access the latest educational curriculum available. Digital tools also help parents, allowing them to better monitor and evaluate how their children are doing and where they need more help. New wireless devices and

applications will also help teachers integrate school and homework assignments for students, creating greater efficiency in the exchange of information. Learning-On-The-Go is one of a series of initiatives in the FCC Education Agenda to modernize the E-rate program to help bring fast, affordable Internet access to schools and libraries across the country. The FCC also opened the door to “School Spots” where schools have the option to provide Internet access to the local community after students go home, which can bring the benefits of high-speed broadband to people who otherwise lack access to the Internet.

- The FCC continued its efforts to increase broadband deployment and adoption on Tribal lands by creating the Native Nations Broadband Task Force with representatives from 19 tribes who bring unique knowledge about telecommunications challenges on Tribal lands. The Task Force will be responsible for assisting in developing and executing a Commission consultation policy, eliciting input to ensure that Native concerns are considered in all Commission proceedings related to broadband, developing additional recommendations for promoting broadband deployment and adoption on Tribal lands, and coordinating with external entities, including other Federal departments and agencies.
- In an *Order* and *NPRM* released June 21, 2011, the Commission adopted an interim rule permitting health care providers meeting certain criteria to be treated as if they are located in “rural” areas for purposes of determining eligibility for all universal service rural health care programs. The *NPRM* also sought comment on whether to make such “grandfathered” providers permanently eligible for discounted services under the rural health care program.

***Ensure harmonized regulatory treatment of competing broadband services, to the extent consistent with the underlying technologies.***

- The FCC launched a public process to determine what actions might be necessary to preserve the characteristics that have allowed the Internet to grow into an indispensable platform supporting our nation’s economy and civic life, and to foster continued investment in the physical networks that enable the Internet. Through a public rulemaking process that included input from more than 100,000 individuals and organizations and several public workshops, the Commission adopted rules to preserve and protect the Internet as an open network enabling consumer choice, freedom of expression, user control, competition, and the freedom to innovate. The new rules require all broadband providers to publicly disclose network management practices, restrict broadband providers from blocking lawful Internet content and applications, and bar fixed broadband providers from engaging in unreasonable discrimination in transmitting lawful network traffic. The rules ensure much-needed transparency and continued Internet openness, while making clear that broadband providers can effectively manage their networks and respond to market demands. The rules also ensure that consumers are able to file complaints and that formal complaint and mediation procedures are available for complex disputes in this area.

***Encourage and facilitate an environment that stimulates investment and innovation in broadband technologies and services.***

- The Commission addressed the affordability and availability of broadband services by adopting rules to streamline access and reduce costs for attaching broadband lines and wireless antennas to utility poles across America, a key component of broadband infrastructure. The FCC found that the lack of timelines for access to poles, the resulting potential for delay in attaching broadband equipment to poles, and the absence of adequate mechanisms to resolve disputes creates uncertainty that deters investment in broadband networks. In addition, widely varying and inefficiently high pole rental rates further discourages broadband deployment. To address these concerns, the FCC comprehensively reformed its pole attachment rules for the first time since the 1990s. The rules fairly compensate utility pole owners for use of their poles and toughen penalties which will deter potentially dangerous unauthorized attachments on poles.
- The FCC held a workshop on “Broadband Acceleration” focusing on rights-of-way and tower siting issues and involving local government and industry representatives. A Notice of Inquiry on these issues was adopted and released by the Commission on April 7, 2011.

# ***CONSUMERS***

## ***Strategic Goal:***

*Empower consumers by ensuring that they have the tools to make informed decisions and challenge unfair business practices.*

## ***FY 2011 PERFORMANCE GOALS***

- Promote pro-consumer policies.
- Enforce the Commission’s rules for the benefit of consumers.
- Work to inform American consumers about their rights and responsibilities in the competitive communications marketplace.
- Ensure that consumer protection and empowerment policies apply consistently and reasonably across technologies.

## ***FY 2011 PERFORMANCE HIGHLIGHTS***

### ***Promote pro-consumer policies.***

- New mobile technologies are changing the way people live, driving our economy and creating jobs. Making sure consumers have the tools and information they need to navigate this changing landscape has been one of FCC Chairman Julius Genachowski’s top priorities. During FY 2011, the FCC proposed new rules to help consumers by addressing wireless “bill shock,” which an estimated 30 million Americans have experienced based on an FCC study. Wireless bill shock occurs when consumers are unaware that they have exceeded the limits on their voice, text, data, or international plans. The FCC proposed rules that would require customer notification, such as voice or text alerts, when the customer approaches and reaches monthly limits that will result in overage charges. The proposed rules also would require mobile providers to notify customers when they are about to incur international roaming charges and require providers to clearly disclose any tools they offer to let customers set usage limits or review their usage balances. Toward the end of FY 2011, the FCC worked with industry leaders and CTIA (The Wireless Association) to craft modifications to the wireless industry’s Code of Conduct as an alternative to these proposed regulations. The result was a voluntary agreement that provides the same kind of consumer protections that the FCC’s proposed rules would have ensured.
- Over the last year, the FCC began utilizing prizes and challenges as tools for advancing open government, innovation, and its mission to promote broadband deployment and adoption, by launching and conducting three challenges on Challenge.gov. Challenge.gov is a GSA-run crowd sourcing platform to help increase innovation in federal government processes and serve as a place where the public and government can solve problems together, better connecting with citizens through online communities, and

providing better access and transparency to government services. “Apps for Communities Challenge” is a joint initiative of the FCC and Knight Foundation to foster digital inclusion and promote broadband adoption by bringing together providers of public data, developers, and traditionally underserved populations through a national contest to make local public information more personalized, usable, and accessible for all Americans.

- The Electronic Comment Filing System now has an Application Programming Interface (API) so that consumers can comment to any proceeding from the FCC website. This API is used throughout the new website and various blog posts that have resulted in an increase of comments from non-traditional filers to FCC proceedings. This required a programming effort to insure that this API could be used on any web page when required and allows for a simple click-and-use approach.
- The FCC has continued to conduct outreach and consumer education regarding the dangers of texting and driving. The FCC hosted the Foundation for Rural Services Youth Tour assembly at the Commission’s headquarters on June 9, 2011 and presented information on the dangers of talking, texting and tweeting while driving. The FCC also participated in the launch of the Distracted Driving Safety Alliance in Washington, DC held January 26, 2011.
- A *Further Notice of Proposed Rulemaking (FNPRM)* took steps to modernize the way television broadcasters inform the public about how they are serving their communities. The *FNPRM* proposes that television broadcast licensees convert their paper public files to an online public file to be hosted by the Commission. Online availability of this information will improve the public’s access to information and Commission hosting will reduce the burdens on television broadcasters. An accompanying *Notice of Inquiry (NOI)* sought comment on a proposed standardized form for reporting by broadcasters of their service to their communities.
- The Commission adopted an *Order* on August 11, 2011, requiring E-rate recipient schools to certify that they have updated their Internet safety policy to include provisions for educating minors about social networking websites and cyberbullying awareness. The update to the Internet safety policy is required under the Children’s Internet Protection Act (CIPA).

***Enforce the Commission’s rules for the benefit of consumers.***

- Enforcement of the FCC’s rules provides consumers with confidence that they are being protected from fraudulent and misleading practices. The FCC’s Enforcement Bureau announced a historic consent decree with Verizon Wireless, including a record \$25 million payment to the U.S. Treasury, regarding “mystery fees” the company charged its customers over the last several years. The payment was the largest in FCC history and the settlement concluded the agency’s ten-month investigation into these overcharges. In addition to Verizon Wireless’s payment to the Treasury, the company made refunds to approximately 15 million customers and ensured that consumers are no longer charged the mystery fees.

- Similarly, the agency proposed a total of \$11.7 million in penalties against four companies that appear to have unlawfully billed tens of thousands of consumers for unauthorized charges, a practice known as “cramming.” Cramming occurs when a company places charges on a consumer’s phone bill without authorization. These mystery fees typically range from \$1.99 to as much as \$19.99 per month. They are often buried in multi-page phone bills and have misleading labels that make it difficult for a consumer to detect them. The proposed penalties were issued against Main Street Telephone (\$4,200,000); VoiceNet Telephone, LLC (\$3,000,000); Cheap2Dial Telephone, LLC (\$3,000,000); and Norristown Telephone, LLC (\$1,500,000).
- The Commission took further action to protect Americans from "mystery fees" and "cramming" by proposing rules that would require landline telephone companies to notify subscribers clearly and conspicuously, at the point of sale, on each bill, and on their websites, of the option to block third-party charges from their telephone bills, if the carrier offers that option. The proposed rules also strengthen the Commission’s requirement that third-party charges be separated on bills from the telephone company’s charges. In addition, the rules would require both landline and wireless telephone companies to include a notice that consumers may file complaints with the FCC and provide the Commission’s contact information for the submission of complaints.
- Enforcement has been at the core of the Commission’s agenda to protect consumers. In addition to the specific examples noted above, the Commission has focused considerable resources on enforcing those rules that directly impact consumers. Areas of activity concerning consumers include, among others, closed captioning, telecommunications relay service, privacy/customer proprietary network information, junk faxes, do-not call violations, and prepaid calling cards.
- Consumers gained new protections against fraudulent and deceptive use of caller ID services under new rules adopted by the FCC. Using spoofing services accessible through the Web or prepaid cards, anyone can inexpensively mask the origin of a call with fake caller identification information. Last year, in response to malicious caller ID spoofing, Congress passed the Truth in Caller ID Act and directed the FCC to adopt rules implementing the Act. Under the FCC’s new rules violators are subject to up to \$10,000 for each violation, or three times that amount for each day of continuing violation, to a maximum of \$1 million for any continuing violation. The FCC may assess fines against entities it does not traditionally regulate, and it can impose penalties more readily than it can under other provisions of the Communications Act.
- The FCC conducted outreach and education to increase consumer awareness about on-line privacy issues. Efforts included a public education forum featuring representatives of telecommunications carriers, technology companies, consumer advocacy groups and academia that explored how consumers can be both smart and secure, when realizing the benefits of Location Based Services (LBS) and a roundtable with leaders from across the public and private sectors on cyber security strategies for small business owners across the country.
- The FCC announced the creation of the Rural Call Completion Task Force to investigate and address the growing problem of calls to rural customers that are being delayed or that fail to connect. Rural telephone companies have reported a 2,000% increase in complaints between April 2010 and March 2011 regarding incoming calls that are

delayed, never completed, of poor quality, or lack accurate caller ID information. Failed or degraded calls not only undermine the integrity of the nation's telephone networks and frustrate consumers, but they also pose a serious risk to public safety.

- The Commission proposed rules to implement the Commercial Advertisement Loudness Mitigation (CALM) Act. Loud commercials on television are a leading source of consumer complaints to the FCC. The Commission proposed a solution that relieves consumers of this problem while limiting costs to TV broadcasters, cable operators and other multichannel video programming distributors.
- During the fiscal year, FCC management and staff reached out to engage and provide information to multiple state and federal regulatory agencies concerning Commission policies and practices. For example, the FCC participated in monthly State National Action Plan (SNAP) conference calls with state PUC Commission and NARUC staff, as well as in monthly conference calls with the National Association of Attorneys General (NAAG). The SNAP group's three goals are to: (1) develop joint public information strategies to increase awareness and education on telecommunications issues affecting consumers; (2) coordinate enforcement actions to protect consumers against abuses that occur in the telecommunications marketplace; and (3) establish a network between the FCC and state commissions to coordinate regulatory initiatives. Specific focus areas of interaction with NAAG include cooperation in consumer education, investigations, enforcement, and rulemaking, federal legislation and regulatory initiatives. Activities included participation in webinars, contacting and responding to inquiries from constituent groups, state, and local governments to help educate and inform them on subjects including, e.g., broadband, universal service including Lifeline Link Up, public safety, cramming, (including reaching out to the Federal Trade Commission), rulemaking and other deadlines, Bill Shock, the National Broadband Map, the Apps for Communities Challenge, pole attachments, and local number portability.
- The FCC was involved in the first fraud case litigated by the Government under the False Claims Act in connection with the Low Income Universal Service Support Program. The case arose from allegations that the predecessor of General Communications Corp (GCI), DigiTel, and its marketing representative, Statewide Sales, committed fraud with respect to Lifeline and Link Up services. Statewide's sales personnel falsified Lifeline applications and encouraged customers to do the same. DigiTel did nothing to ensure the accuracy of the applications. Under the settlement agreement, GCI paid damages of \$1,556,075, which allowed the Federal government to recover most, if not all, of the Low Income subsidy payments wrongly disbursed. GCI also entered into a compliance agreement requiring it to substantiate the eligibility of all GCI's subscribers and to take steps to prevent further violations of the Low Income Support Program rules.
- The Enforcement Bureau continued to vigorously enforce the Telephone Consumer Protection Act (TCPA) which generally prohibits the use of autodialers, prerecorded messages, unsolicited text message advertisements, unsolicited fax advertisements, and telemarketing to consumers whose names are listed on the Do-Not-Call registry. During the fiscal year, the Bureau issued 11 citations, five Notices of Apparent Liability (NALs), and four forfeiture orders totaling \$2.7 million for sending unsolicited fax advertisements; and eight citations, two NALs, and one forfeiture order totaling \$380,000 for making impermissible prerecorded calls.

- The Enforcement Bureau continued to protect consumer privacy through its robust enforcement of FCC rules that require telecommunications carriers and interconnected VoIP providers to safeguard customer proprietary network information (CPNI). During FY 2011, the Bureau resolved CPNI NALs against more than 600 companies, issuing 163 consent decrees totaling \$449,640, and 12 forfeiture orders totaling \$240,000.

***Work to inform American consumers about their rights and responsibilities in the competitive communications marketplace.***

- The FCC has taken several actions as part of its ongoing efforts to implement the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA). The CVAA is considered the most significant piece of accessibility legislation since the passage of the Americans with Disabilities Act in 1990, modernizing existing communications laws to ensure that people with disabilities are able to share fully in the economic, social, and civic benefits of broadband and other 21<sup>st</sup> century communication technologies. In accordance with the CVAA, the Commission established two advisory committees. The first was the Video Programming Accessibility Advisory Committee, created to address the Act's directives on Internet-based captioning, video description, accessible video equipment, and emergency access by people who are blind and visually impaired. The second was the Emergency Access Advisory Committee, created to recommend measures to ensure that people with disabilities have access to next generation 9-1-1 technologies and services.
- With respect to the CVAA's mandates, the Commission adopted rules to ensure that the 54 million individuals with disabilities living in the United States are able to fully use advanced communications services, equipment, and networks through telecommunications and interconnected Voice over Internet Protocol (VoIP) manufacturers providing such access.
- Pursuant to the CVAA, the Commission reinstated the video description rules originally adopted by the Commission in 2000. Video description is the insertion of audio-narrated descriptions of a television program's key visual elements into natural pauses in the program's dialogue, which makes video programming more accessible to individuals who are blind or visually impaired.
- The FCC established a National Deaf-Blind Equipment Distribution Program (NDBEDP) to enable low-income individuals who are deaf-blind to receive equipment to access 21<sup>st</sup> Century communications services. The pilot program will help ensure that qualified individuals have access to the Internet, as well as telecommunications, advanced communications and information services. Finally, the Commission issued a *NPRM* seeking comment on proposed rules to enable the provision of closed captions on video programming delivered over the Internet. This CVAA requirement will apply to any video programming delivered via the Internet that had previously been shown on television with captions. The FCC continues to take aggressive enforcement action to ensure that individuals with hearing loss have access to advanced telecommunications services as contemplated by the wireless hearing aid compatibility rules.
- As part of its ongoing efforts to ensure that the Video Relay Service (VRS) continues to provide a crucial telecommunications link for people who are deaf and hard-of-hearing,

the Commission adopted rules designed to eliminate the waste, fraud, and abuse in the VRS program that threatened its ability to continue serving Americans who use it. VRS enables persons who use American Sign Language to communicate with other individuals who do not know ASL through a broadband connection using a video link. A communications assistant interprets the conversation back and forth between the parties in sign language and voice. The FCC's actions are intended to eliminate illegitimate payments from the TRS Fund to providers, and ensure that only qualified providers of service are permitted to receive compensation from the TRS Fund.

- The FCC directed Rolka Loubé Saltzer Associates (RLSA), administrator of the TRS Fund, to implement improvements in the TRS program. RLSA was directed to implement financial and accounting internal controls in accordance with OMB Circular A-123; follow OMB and Treasury reporting requirements and deadlines; follow Freedom of Information Act requirements; establish audit follow up requirements in accordance with OMB Circular A-50; submit accounting information in accordance with Commission standards; establish a recordkeeping process to accept transfer of all records from the previous administrator; follow investment guidelines established by OMB and the FCC; and comply with the Improper Payments Information Act.
- The Commission works diligently to assist individual consumers. During this fiscal year, the Commission processed over 290,000 consumer complaints and responded to over 370,000 consumer inquiries. In addition, the Commission conducts educational outreach at major consumer and educational conventions such as AARP and the American Library Association.
- The FCC acted on several items to strengthen and expand communications services to Native Nations and their communities. The FCC conducted Native Nations Day on March 3, 2011, as part of its open meeting, with a renewed focus on initiatives that will help expand access to vital communications, including broadband, wireless and radio services in Native communities across the United States. The meeting included public presentations from several Native Nation leaders, and nation-to-nation consultation sessions. The items adopted by the Commission include a *NOI* on improving communications services for Native Nations that seeks comment on a number of issues, including greater broadband deployment, the need for a uniform definition of Tribal lands to be used in rulemakings, and the importance of strengthening the FCC's nation-to-nation consultation process with Native Nations. The Commission approved a *NPRM* on ways to expand the efficient use of spectrum over Tribal lands so as to improve access to mobile wireless communications, providing consumers with more choices on how they communicate, share information and get their news. Finally, the Commission adopted an *Order* that will help expand opportunities for Tribal entities to provide broadcast radio services to Native communities.
- Commission management and staff have continued to promote consumer advocacy and business community awareness of FCC's accessibility rules and forfeitures associated with violations of these rules to increase awareness of consumer rights and to ensure that persons with disabilities have access to communications products and services as well as video programming. For example, the Enforcement Bureau issued an advisory reminding Internet-based TRS providers of emergency calling requirements on February 22, 2011, as well as the Comcast consent decree regarding closed captioning. FCC staff gave presentations on disabilities issues at events sponsored by the Federal Communications

Bar Association, the National Court Reporters Association, and Microsoft's Accessibility Roundtable.

- The FCC maintains a library of over 160 consumer-oriented fact sheets, FAQs, guides and tip sheets that provide information for consumers to make informed choices regarding communications-related products and services. All of the publications were reviewed in fiscal year 2011 to ensure that the documents are accurate and a majority are available in Spanish. New publications are created in response to emerging topics such as cybersecurity, loud commercials, the 21<sup>st</sup> Century Communications and Video Accessibility Act (CVAA) and the nationwide Emergency Alert System test.

***Ensure that consumer protection and empowerment policies apply consistently and reasonably across technologies.***

- In 2010, the FCC initiated a staff-level working group to identify trends and make recommendations on how the information needs of communities can be met in a broadband world. The working group included journalists, entrepreneurs, scholars, and government officials. The group interviewed more than 600 individuals and organizations, collected over 1,000 public comments, reviewed existing research, held multiple hearings, and made site visits to newsrooms across the country. On June 9, 2011, the group issued an in-depth analysis of the current state of the media landscape along with a broad range of recommendations. The staff-level report, titled *Information Needs of Communities: The Changing Media Landscape in a Broadband Age*, found that the Internet has enabled an unprecedented free exchange of ideas and information, empowering individuals with a wealth of new information to better inform decision-making and engender more accountable government. Local news continues to play a vital role, with some stations seizing multiplatform opportunities. Newspapers and television stations have emerged as the largest providers of local news online. Key recommendations in the report included streamlining disclosures about local programming and discouraging “pay-for-play” arrangements in which TV stations allow advertisers to dictate on-air content without informing viewers by requiring online disclosure of such arrangements.
- The overwhelming majority of digital cable subscribers currently lease set-top boxes from their cable providers. As video drives additional broadband usage, it becomes increasingly important to stimulate competition and innovation in set-top boxes. Further innovation will lead to greater choice, lower prices, and more capability in the boxes. In October 2010, the Commission adopted rules to remedy current issues with set-top boxes using CableCARDS by ensuring that retail devices have access to all video programming that is prescheduled by the programming provider; making CableCARD pricing and billing more transparent; and streamlining CableCARD installations. These actions were intended to unleash video innovation and consumer choice in equipment.
- In January 2011, the Enforcement Bureau issued an advisory reminding wireless service providers of their hearing aid compatibility obligations and the Bureau's intention to take aggressive enforcement action. The Bureau issued 12 Notices of Apparent Liability (NALs) and four consent decrees totaling \$328,000. The Bureau will actively continue to pursue violations of these rules.

- Acting on referrals from the Federal Trade Commission, the Enforcement Bureau investigated eight carriers for possible deceptive marketing of prepaid calling card services.

# ***COMPETITION AND INNOVATION***

## ***Strategic Goal:***

*Promote a competitive dynamic for communications and media services that fosters research, innovation, and job creation, and presents consumers with reliable, meaningful choice in affordable services.*

## ***FY 2011 PERFORMANCE GOALS***

- Develop media rules and policies that achieve statutory policy objectives in light of significant changes to traditional media services.
- Enforce compliance with media rules.
- Promote access to telecommunications services for all Americans.
- Ensure that American consumers can choose among multiple reliable and affordable communications services.
- Ensure that the Nation's spectrum is used efficiently and effectively.
- Enforce the Commission's spectrum regulations and policies.

## ***FY 2011 PERFORMANCE HIGHLIGHTS***

### ***Develop media rules and policies that achieve statutory policy objectives in light of significant changes to traditional media services***

- The Commission looked to promote competition in the video distribution marketplace with the issuance of three Reports and Orders and a Public Notice to implement the new statutory requirements of the Satellite Television Extension and Localism Act (STELA). STELA provides the framework for satellite carriage of local television stations. The Commission's actions provided satellite subscribers with greater programming choices and improved parity and competition between satellite and cable carriage of broadcast stations. The Commission also proposed rules to improve the procedures for the filing and resolution of carriage complaints filed by video programming vendors.
- The FCC successfully defended against a broad-based challenge to the Commission's most recent revision of its media ownership rules. In a July 2011 opinion, the Third Circuit remanded two rules but rejected constitutional, statutory, and APA attacks on the radio/television cross-ownership rules, the local radio and local TV ownership rules, and the dual network rule, remanding only two narrow issues for the Commission's further consideration. The Commission also filed pleadings in support of a motion by public interest groups to dismiss some broadcasters' appeals of certain newspaper/broadcast cross-ownership waiver decisions rendered by the FCC. In an order issued in August 2011, the D.C. Circuit granted the motion to dismiss on jurisdictional grounds.

- The Commission adopted the implementation details for the voluntary commitment made by Sirius XM to lease a portion of its channel capacity to Qualified Entities. This action represents an important step that will promote access for new entrants and more diverse programming in the satellite digital audio radio service.
- The FCC provided a boost to local community radio by charting a path forward to the licensing of new Low Power FM (LPFM) stations. The procedures proposed in an NPRM will balance the needs of LPFM, translator, and booster stations in accordance with the framework established by Congress in the Local Community Radio Act. The Commission adopted three Orders to pick tentative selectees out of mutually exclusive applications for Noncommercial Educational FM (NCE) Stations. These Orders will lead to many new NCE stations nationwide.
- The Commission released an Order adopting rules to mitigate space-path interference between 17/24 GHz Broadcasting Satellite Service (BSS) systems and Direct Broadcast Satellite Systems (DBS) systems that operate in the same frequency band. In doing so, the Commission facilitated the introduction of the 17/24 GHz BSS, which should provide new and innovative services, including video, audio, data, and video-on-demand to consumers in the United States.

***Enforce compliance with media rules.***

- While proposed mergers of media or communications firms are becoming commonplace, the FCC conducts thorough reviews of each transaction to ensure that the public interest is protected. In January, the Commission granted approval, with conditions and enforceable commitments, to assignments and transfers of control of broadcast, satellite, and other radio licenses from General Electric (GE) to Comcast. The approval allowed GE and Comcast to create a joint venture involving NBC Universal (NBCU) and Comcast. As part of the merger, Comcast-NBCU is required to take affirmative steps to foster competition in the video marketplace. In addition, Comcast-NBCU committed to increasing local news coverage to viewers; expand children's programming; enhance the diversity of programming available to Spanish-speaking viewers; offer broadband services to low-income Americans at reduced monthly prices; and provide high-speed broadband to schools, libraries, and underserved communities. The conditions imposed by the Commission address potential harms posed by the combination of Comcast, the nation's largest cable operator and Internet service provider, and NBCU which owns broadcast stations and owns and develops valuable television and film content.
- The Enforcement Bureau investigated numerous instances of unlicensed (pirate) broadcasting, including cases involving interference to licensed broadcasters, air traffic control frequencies, and other public safety communications. These investigations resulted in the issuance of 103 Notices of Unlicensed Operation, 158 warnings, and 14 Notices of Apparent Liability proposing forfeitures totaling \$222,000.

***Promote access to telecommunications services for all Americans.***

- Building on recommendations contained in the National Broadband Plan and with extensive input from a wide array of stakeholders, in February 2011 the Commission

adopted a *NPRM* proposing four key principles to guide reform of the Universal Service Fund (USF) and intercarrier compensation (ICC). First, modernize and refocus USF and ICC to make affordable broadband available to all Americans and accelerate the transition from circuit-switched to IP networks, with voice ultimately one of many applications running over fixed and mobile broadband networks. Second, control the size of USF as it transitions to support broadband by combating waste and inefficiency, as American consumers and businesses ultimately pay for USF. Third, require accountability from companies receiving support to ensure that public investments are used wisely to deliver intended results. Government must also be accountable for the administration of USF, including using clear goals and performance metrics for the program. Fourth, transition to market-driven and incentive-based policies that encourage companies to maximize the impact of scarce program resources and benefits to reach all consumers.

- In the *NPRM*, the Commission proposed to modernize and streamline its USF and ICC policies to bring affordable wired and wireless broadband to all Americans while combating waste and inefficiency. Under the proposal, the FCC would create a Connect America Fund (CAF) to quickly and efficiently deliver support to unserved areas. Using market-based policies to support providers in a technology-neutral manner, the CAF would embody areas where broadband funding will have the biggest impact. ICC would also be reformed to prevent gaming of the system while gradually reducing per-minute intercarrier compensation charges, resulting in billions of dollars of savings for consumers and removing disincentives for carriers to maintain legacy networks rather than investing in advanced, efficient IP-based infrastructure.
- Consistent with a key recommendation of the FCC's National Broadband Plan, the *NPRM* also proposed to include within the CAF a new Mobility Fund to provide support to accelerate our nation's ongoing efforts to close gaps in mobile wireless service. Despite wireless providers' efforts, millions of Americans still live, work, and travel in areas where these advanced services are unavailable. The Mobility Fund will help improve coverage for current-generation mobile wireless service.
- Another USF program under reform in FY 2011 was the Lifeline/Link Up program. This program has provided low-income households with discounts on monthly phone bills and initial installation charges since 1985. But program rules and administration had not kept pace with significant changes in technology, markets, and regulations. A *NPRM* adopted in March took steps to comprehensively reform and modernize the program for 21st century communications needs, including strengthening protections against waste, fraud and abuse. Then in June, the Commission imposed changes on the program to ensure that that multiple carriers do not get support for serving the same consumer. After determining through enhanced oversight that some subscribers have Lifeline-subsidized phone service from multiple carriers, the FCC clarified that its rules expressly bar more than one benefit per subscriber. The action will save potentially millions of dollars per year, helping ensure that Lifeline can reach as many low-income consumers as possible.
- Vigilant management and oversight of the E-rate program led to a civil settlement with Hewlett Packard (HP) for alleged E-rate fraud. This followed an extensive investigation by the FCC and the Department of Justice (DOJ). Acting on tips from whistleblowers, the FCC and the DOJ investigated allegations that contractors working with HP and other companies lavished gifts on personnel from two Texas school districts in order to get

contracts that included some \$17 million in HP equipment. Contractors provided meals and entertainment, including trips on a yacht and Super Bowl tickets, to school personnel to get inside information and win contracts that were supposed to be awarded through a competitive bidding process. As part of the settlement, HP agreed to pay the government \$16.25 million, most of which will be returned to the E-rate program.

- During the fiscal year, the FCC suspended two individuals from participating in the USF Schools and Libraries program. These individuals were convicted of engaging in fraud or similar criminal acts related to the program's funding mechanism. The Commission also settled other USF-related fraud allegations resulting in approximately \$15.2 million in repayments to the USF.
- Working closely with the Office of Solicitor General, the FCC's Office of General Counsel drafted an amicus brief on behalf of the United States and the FCC that helped persuade the Supreme Court to rule that an incumbent local exchange carrier must provide "entrance facilities" to requesting competitors for purposes of interconnecting the two carriers' networks. As a result of the Supreme Court's decision, which recognized the obligation of courts to defer to FCC amicus briefs that set forth the agency's understanding of its orders implementing the Communications Act, courts of appeals have increasingly solicited – and deferred to – the FCC's views on such interpretive questions.

***Ensure that American consumers can choose among multiple reliable and affordable communications services.***

- In March, the Commission approved the merger of CenturyLink and Qwest Communications International. In doing so, the Commission imposed protections against the risk of harm to competition, including requirements for the merged entity to significantly expand its network and launch a major broadband adoption program for low-income consumers. These commitments will bring broadband with actual download speeds of at least 4 Megabits per second to at least four million more homes and businesses and at least 20,000 more anchor institutions, such as schools, libraries, and community centers. The merged entity also agreed to significantly increase the availability of higher-speed broadband by more than doubling the number of homes and businesses that can receive 12 Megabits per second broadband and more than tripling the number that can get 40 Megabits per second broadband.
- In March, the FCC released reports on Internet access service connections and telephone subscribership in the U.S. Titled *Internet Access Services* and *Local Telephone Competition*, the two reports are based on data submitted by carriers every six months. The reports track changes at the state and national level in the number of subscribers to Internet access service in 72 different combinations of speed tiers, and the number of wireline, mobile and interconnected VoIP telephone subscribers.
- The FCC collaborated with U.S. Government agencies including the Office of the United States Trade Representative and the National Institute of Standards and Technology to promote international trade policies for telecommunications services and equipment, e.g. Mutual Recognition Agreements (MRAs) for telecommunications product approval.

- In 2011, the United States signed a MRA with Mexico easing burdens on U.S. companies while maintaining high levels of safety protection and facilitating cross-border trade. Mexican regulatory authorities will accept tests performed by recognized U.S. laboratories to determine the conformity of telecommunications equipment with Mexican technical requirements. A similar MRA is currently under development with Israel.
- On June 17, 2011, the Commission released a Declaratory Ruling granting SPACEWAY 6, a planned Ka-band fixed-satellite service space station licensed by the United Kingdom, access to the U.S. market. In the decision, the Commission staff addressed an argument that the FCC should deny access because SPACEWAY 6 does not have ITU coordination priority and could cause harmful interference to satellites with ITU priority. The decision clarified that the FCC will not consider ITU coordination status in market access cases, but, rather, will condition access on the successful completion of ITU coordination.
- On August 31, 2011, the International Bureau released an *Order* granting Panasonic Avionics Corporation authority to operate up to 50 transmit/receive aircraft earth stations in the Ku-band. This allows Panasonic to provide two-way, in-flight broadband services, including Internet access, to passengers and flight crews aboard commercial airlines.
- In August 2011, the International Bureau granted the first licenses for Vehicle-Mounted Earth Station (VMES) terminals that have primary operating status in fixed-satellite service frequency bands. These licenses, issued to General Dynamics, L-3 Communications, and KVH Industries, will enable these companies to deploy terminals that will provide broadband service to users in cars, trucks, and trains. These systems can be used in connection with homeland security and in disaster recovery efforts.
- The FCC continued to monitor the average international calling rate to U.S. consumers, which fell from 8.6 cents per minute in 2008 to 8.0 cents per minute in 2009. This continues a trend of falling rates since 1999 when the average international calling rate was 51 cents per minute. In order to ensure that this trend continues, the FCC monitors the effect of foreign mobile termination rates on U.S. consumers based upon the record established from the Commission's 2004 Notice of Inquiry on this subject.
- The FCC is taking action when necessary to protect competition and prevent rates from rising above costs. In November 2009, the International Bureau issued an order stopping all U.S. carrier payments to a foreign carrier that had substantially increased termination rates above cost and cut off the circuits of U.S. carriers that refused to pay the increased rates.

***Ensure that the Nation's spectrum is used efficiently and effectively.***

- The Commission launched two proceedings during the fiscal year that will help to promote investment and create jobs in developing innovative spectrum-efficient technologies and services to help meet the growing demand for wireless broadband services. The first action is a *NPRM* that seeks to expand the FCC's existing Experimental Radio Service rules to promote cutting-edge research and foster development of new wireless technologies, devices, and applications. Specifically, the Commission proposed a new type of license, called a "program license," which would give qualified entities broad authority to conduct research without the need to seek new

approval for each individual experiment. The second action is a *NOI* to promote wireless innovation by examining how dynamic access radios and techniques, which use technology to squeeze the most use out of available spectrum, can provide more intensive and efficient use of spectrum.

- The Commission adopted a number of items designed to facilitate the introduction of new services and increase the flexibility of certain existing services. Examples include the Wireless Backhaul *Report & Order (R&O)*, *FNPRM*, and *Memorandum Opinion & Order (MO&O)*, which eliminated existing impediments to the effective use of certain microwave frequencies to provide backhaul connectivity for mobile and fixed broadband networks; the *ESV 2d Recon Order*, which addressed challenges to FCC rules governing earth stations on vessels; the *White Spaces 2d R&O*, in which the Commission adopted rules that permit broadband Internet access devices to operate in unoccupied spectrum between broadcast television channels; the *Broadband-over-Power-Lines 2d R&O*, which addressed issues raised by a court remand of a previous order to encourage broadband services over power lines; and the *MSS Spectrum R&O*, in which the Commission adopted rules to facilitate terrestrial use of Mobile Satellite System spectrum to foster provision of broadband Internet access services.
- The Wireless Telecommunications Bureau performed activities related to the planning, preparation, and conduct of the following auctions of spectrum during the fiscal year:
  - *Auction 90 (VHF Commercial Television)* [began 2/15/11, closed 2/17/11] Concluded with one bidder winning 2 construction permits.
  - *Auction 91 (FM Broadcast)* [began 4/27/11, closed 5/11/11] Concluded with 66 bidders winning 108 construction permits.
  - *Auction 92 (700 MHz Band)* [began 7/19/11, closed 7/25/11] Concluded with 7 bidders winning 16 licenses.
  - *Auction 93 (FM Broadcast)* is scheduled to begin on 3/27/2012 and will offer 119 construction permits.
- The Commission adopted a *NPRM* on May 24<sup>th</sup> proposing to amend the FCC's rules to enable enhanced vehicular radar technologies to improve collision avoidance and driver safety.

***Enforce the Commission's spectrum regulations and policies.***

- To comply with its obligations under the National Environmental Policy Act, the FCC commenced a Programmatic Environmental Assessment (PEA) of its Antenna Structure Registration (ASR) program. The purpose of the PEA is to evaluate the potential environmental effects of the ASR program. Under the program, owners of antenna structures that are taller than 200 feet above ground level or that may interfere with the flight path of a nearby airport must register those structures with the FCC. The antenna structure owner must obtain painting and lighting specifications from the Federal Aviation Administration and include those specifications in its registration prior to construction. The Commission is undertaking the PEA in response to the determination of the Court of Appeals for the District of Columbia Circuit in *American Bird Conservancy v. FCC* that registered towers may have a significant environmental effect on migratory birds.

- On July 26, 2011, the International Bureau revoked EchoStar's authorization to construct a Direct Broadcast Satellite (DBS) service satellite that was to be located at the 86.5° W.L. orbital location, finding that EchoStar did not meet license conditions requiring it to complete critical design review for the satellite two years after grant, and to complete construction of the satellite within four years of grant.
- On July 26, 2011, International Bureau revoked Spectrum Five's market access grant to serve the U.S. market using two Netherlands-authorized DBS satellites to be located at the 114° W.L. orbital location. The Bureau found that Spectrum Five had ceased all construction activities on the two satellites more than two years previously, and had not provided a persuasive justification for additional time in which to meet the milestones.

# ***CONTINUAL IMPROVEMENT***

## ***Strategic Goal:***

*Make the FCC a model for excellence in government by being data-driven in our decision making and committing to a transparent and participatory process that encourages public involvement and feedback.*

## ***FY 2011 PERFORMANCE GOALS***

- Be data-driven in our policy- and decision-making.
- Ensure effective and modern communications with consumers, Congress, the communications industry, and fellow federal, state, tribal, and local agencies.
- Foster public participation in reform and rule making.
- Create and sustain an organizational culture that encourages diversity, innovation, accountability, and continual improvement.

## ***FY 2011 PERFORMANCE HIGHLIGHTS***

### ***Be data-driven in our policy- and decision-making.***

- As part of its Data Innovation Initiative, the FCC launched two proceedings to ensure that it collects the data it needs to make sensible policy, streamlines data collection, and eliminates unneeded data efforts that impose unnecessary burdens on filers. The Commission approved a *NPRM* to eliminate 20-year-old requirements for certain telephone companies to submit data which may no longer be necessary due to subsequent policy decisions. The Commission also approved a second *NPRM* that seeks comment on whether and how to reform data collection regarding broadband and local telephone service to better serve the agency, consumers, and other stakeholders after more than a decade of rapid innovation in the marketplace for these services.
- On August 22, 2011, FCC Chairman Julius Genachowski announced the elimination of 83 outdated and obsolete media-related rules, including Fairness Doctrine regulations which have not been applied for more than 20 years. The elimination of these rules adds to the more than 50 outdated regulations that were already deleted as part of the Commission's robust regulatory review process. Continuing this effort, Chairman Genachowski directed each FCC bureau to conduct a review of rules within its purview with the goal of eliminating or revising rules that are outdated or place needless burdens on businesses.
- The Commission adopted a *NPRM* proposing to reduce regulatory burdens and streamline the foreign ownership review process for U.S. companies with common carrier radio licenses (e.g., wireless phone companies) and certain aeronautical radio licenses. The proposals would ensure that the Commission continues to receive the

information it needs to serve the public interest while reducing the number of required filings by more than 70%.

***Ensure effective and modern communications with consumers, Congress, the communications industry, and fellow federal, state, tribal, and local agencies.***

- Continuing to deliver on its promise of bringing Web 2.0 to government, the FCC launched a complete overhaul of the agency's website (www.fcc.gov). Providing a more intuitive user experience and adding Web 2.0 technologies, the new site improves and simplifies FCC.gov for consumers, government, public safety agencies, and the business community. The new FCC.gov is built using web services, a series of standards employed across many of the Web's most popular sites, which empowers citizen developers to build off the new FCC.gov in innovative ways. By building the new site using an open source, cloud-hosted, and scalable architecture, the FCC has leveraged modern tools as a long-term cost-saving strategy and lowered the barriers to future development and innovation among other public and private sector websites. The Commission's new website was shaped by public feedback and sharpened through an ongoing conversation with users over several months. It represents the Commission's first overhaul of its main website in more than a decade.
- During the fiscal year, the FCC and the Department of Treasury explored a joint national prize challenge on financial access and mobile communications, consistent with the America COMPETES Act and other relevant laws and regulations. Considerations include how the joint challenge might serve as an effective open government tool to engage citizens to help solve problems, stimulate innovation, and advance the FCC's core missions, including consumer empowerment, digital inclusion, broadband adoption and acceleration.
- The Wireline Competition Bureau prepared an order, released on June 10, 2011, that adopts rule revisions enabling all tariff filers to file electronically over the Internet, using the Electronic Tariff Filing System (ETFS). The Bureau worked with the Commission's Information Technology Center to create a new section of ETFS dedicated to non-ILEC filing of tariffs and to allow the public to search non-ILEC tariffs.

***Foster public participation in reform and rule making.***

- The FCC took steps to expand its Electronic Comment Filing System to include non-docketed proceedings. These electronic filings will provide the public with more information about the workings of the FCC and save industry and the agency staff time and money. The FCC also expanded electronic filing of information about rates, terms, and conditions of telecommunications services by having competitive local providers and other nondominant carriers use the FCC's existing Electronic Tariff Filing System for all tariff filings. This creates a uniform system of online access that not only increases transparency for consumers and reduces burdens on industry, but also eases tariff enforcement and facilitates tracking of industry trends.
- In a February *Report and Order*, the Commission revised portions of the Commission's Part 1 procedural rules and Part 0 organizational rules. These revisions will increase the

efficiency of Commission decision-making, modernize Commission procedures for the digital age, and enhance the openness and transparency of Commission proceedings for practitioners and the public. The Commission delegated authority to the staff to dismiss or deny defective or repetitive petitions for reconsideration of Commission decisions and amended the rule that authorizes the Commission to reconsider a decision on its own motion within 30 days to make clear that the Commission may modify a decision and not merely set it aside or vacate it. The Commission also set a default effective date for FCC rules in the event the Commission does not specify an effective date in a rulemaking order. In accordance with the rule changes, the Commission issued a public notice announcing 1,000 dormant proceedings that would be terminated if there were no objections within 45 days after the list had been published in the Federal Register.

- The Commission adopted a *Report and Order* which required fuller disclosure of ex parte contacts in permit-but-disclose proceedings. The order thus promotes fairness to all parties, minimizes undue influence, and fosters timeliness, openness, and transparency in Commission decision-making.
- During the fiscal year, the FCC has used its web presence and social media environment to provide information and involve more entities in the decision making process. This includes designing the Accessibility Clearinghouse, maintaining the Consumer Information Registry, creating a state and local government e-mail account ([iga@fcc.gov](mailto:iga@fcc.gov)) that is designed to facilitate and foster ongoing communications with state and local government entities regarding telecommunications issues, and [AccessInfo@fcc.gov](mailto:AccessInfo@fcc.gov) for consumers to subscribe to the Commission's accessibility and disability news. Commission staff also planned and helped to initiate updates of various contact lists for purposes of targeted e-mail blasts geared to low-income, rural residents on Tribal lands, seniors, people with disabilities, and low digital/English literacy communities and for New Media communications (e.g., Facebook, Twitter, and blog contact information).

***Create and sustain an organizational culture that encourages diversity, innovation, accountability, and continual improvement.***

- This past year, the Commission implemented the Plain Writing Act of 2010. The Commission named a senior plain writing official, created a plain writing website and issued a new guide called "Plain Language Workbook: Five Steps to Clear, Effective Communications." In addition, approximately 880 staff members were trained in plain writing.
- In FY 2011, the Media Bureau maintained a high level of productivity by analyzing over 17,000 applications over the course of the fiscal year. The number of applications that had been pending for more than 365 days was 20% lower at the end of FY 2011 than the number pending at the end of FY 2010. The Bureau also reduced the number of applications pending between 180 days and 365 days by 65% during FY 2011. Overall for the Bureau, the total number of applications pending at the end of FY 2011 was 19% lower than the number pending at the end of FY 2010.
- International Bureau staff acted upon 220 international Section 214 applications filed in connection with the provision of international telecommunications services to and from

the United States. This includes 146 streamlined Section 214 applications and 74 non-streamlined Section 214 applications. 98 percent of the streamlined applications were processed within our processing goals. Another 32 applications were delayed pending review by the Executive Branch for law enforcement, national security, foreign policy and trade concerns, and were processed within our processing goals once the Executive Branch completed its review. Bureau staff also processed 1,577 earth station applications within an average of 51 days, and 244 space station applications within an average of 116 days.

- The Wireless Telecommunications Bureau continued to review and process a high volume of license applications and antenna tower citing applications within processing goals. 93.8% of routine license applications were processed within 90 days of receipt. 73% of applications were processed automatically without human intervention.
- The Office of Engineering and Technology processed 237 applications for equipment authorization, granting 176 of those applications. 90% of the applications were processed within 66 days. OET also processed 90% of experimental license applications within 34 days.

# ***PUBLIC SAFETY AND HOMELAND SECURITY***

## ***Strategic Goal:***

*Promote the availability of reliable, interoperable, redundant, and rapidly restorable critical communications infrastructures that are supportive of all required services.*

## ***FY 2011 PERFORMANCE GOALS***

- Promote the reliability, security, rapid restoration, and survivability of the communications infrastructure
- Facilitate deployment of public safety technology.
- Maintain a clearinghouse of information for the public safety community.

## ***FY 2011 PERFORMANCE HIGHLIGHTS***

***Promote the reliability, security, rapid restoration, and survivability of the communications infrastructure***

- Network outage reports enable the FCC to track and analyze information on outages affecting 911 service and determine if action is needed to prevent future outages from occurring. Analysis of data collected for the FCC's current outage reporting requirements have led to a reduction in the number of communications outages and improved the pace of recovery. For instance, within hours of Hurricane Katrina hitting land in 2005, the Commission's outage reporting data quickly became the Federal government's best source of information about the conditions of critical communications infrastructure in the disaster area. Working with communications providers, the FCC was able to identify specific needs for security, fuel, and other support and help guide and prioritize Federal restoration efforts.
- The Commission adopted a *NPRM* proposing that interconnected VoIP service and broadband Internet service providers report significant outages. Under this proposal, providers of these services would report outages of at least thirty minutes that meet certain thresholds, helping fulfill the FCC's mission to ensure that our country's critical communications infrastructure remains operating in times of crisis.
- In addition, the Commission continued its enforcement of the network outage reporting rules, which allow the government to identify widespread problems that could be indicative of terrorist activity and to generally monitor the reliability of communications networks.
- Vital communications can be disrupted not only by outages, but by harmful interference as well. Throughout the year, the Commission's Enforcement Bureau worked tirelessly to track down sources of interference to the military, first responders, other Federal agencies, and consumers. For example, the Enforcement Bureau acted against the use and sale of cell and GPS "jammers," which intentionally block, jam, or interfere with

authorized radio communications and therefore pose significant risks to public safety other emergency communications. In February, the Bureau launched an education and outreach campaign emphasizing that the operation and marketing of jamming devices is illegal and recently cited 20 online retailers for illegally marketing these devices. Similarly, the Enforcement Bureau issued six Notices of Apparent Liability for Forfeiture against companies operating devices causing interference to Terminal Doppler Weather Radars (TDWRs) maintained by the Federal Aviation Administration (FAA). TDWR systems serve the critical function of providing the FAA with quantitative measurements for windshear, microbursts, and other weather hazards.

- The Commission adopted a *NOI* seeking comment on ways to further strengthen the reliability and resiliency of America's communications networks. As the communications infrastructure migrates to broadband technology, critical communications services will travel over a network infrastructure that may or may not be built to the high standards of legacy systems. The potential for differences in service reliability may be a major source of concern for consumers, government, and businesses across America. This action is part of the FCC's ongoing efforts to help ensure the reliability and resiliency of communications for the public, emergency responders, healthcare providers, and providers of other critical services such as electric power during natural or man-made disasters.
- Disaster preparedness and response continues to be a priority for the FCC. Following the devastating earthquakes in Japan, the Commission's Public Safety and Homeland Security Bureau conducted a public forum in May exploring earthquake-related emergency preparedness and response issues. In response to Hurricane Irene's arrival in August, the Public Safety and Homeland Security Bureau, in conjunction with the National Communications System, activated the agency's Disaster Information Reporting System (DIRS). DIRS is a voluntary Web-based system that communications providers, including wireless, wireline, broadcast, and cable providers, can use to report communications infrastructure status and situational awareness information during times of crisis. Service providers in areas affected by a disaster are able to report the status of their communications equipment, restoration efforts, power (*i.e.*, whether they are using commercial power, generator or battery), and access to fuel. The FCC, working with Federal Emergency Management Agency (FEMA) and other agencies, stood ready to provide aid to public safety licensees and others responsible for safety of life and property, health and welfare of the population, and utility services.
- FCC staff leads an International Telecommunications Union (ITU) Study Group which includes a four-year study of cyber security issues by member states. Taking into consideration the needs of developing countries, the Study Group will produce reports, and where appropriate, guidelines on: 1) developing a national strategy for cyber security; 2) developing public/private partnerships; 3) creating national cyber incident management capability, *i.e.* incident watch, warning, response, and recovery mechanisms; 4) developing a culture of awareness; and 5) identifying best practices to protect against spam malware and other cyber threats. Halfway through the four-year cycle, the group has submitted four draft reports for discussion containing proposed best practices for: (i) cyber security public private partnerships, (ii) a model implementation guide for national administrations, (iii) building and managing a national CSIRT (computer security incident response team), and (iv) network protection by Internet service providers.

***Facilitate deployment of public safety technology.***

- Today's 911 system is not equipped to take advantage of new technologies. Existing 911 call centers lack the technical capability to receive texts, photos, videos, and other data. Further, many 911 call centers do not have access to broadband, which makes it difficult to receive incoming data, particularly in large volume. In December 2010, the Commission adopted a *NOI* seeking public comment on how Next Generation 911 (NG911) can enable the public to obtain emergency assistance by means of advanced communications technologies beyond traditional voice. Near the end of FY 2011, the Commission adopted a *NPRM* examining options for enabling consumers to send texts to 911 and to seek comment on long-term development of multimedia NG911 technology that would support delivery of photos, videos, and data in addition to texting. The Commission will consider the appropriate role for the agency in facilitating, and if necessary accelerating, the rollout of these capabilities.
- Continuing its efforts to improve the public's ability to contact emergency services and to enable public safety personnel to obtain accurate information regarding the location of a 911 caller, the Commission strengthened its Enhanced 911 (E911) location accuracy rules for wireless carriers by adopting an *Order* to phase out the less stringent network-based location accuracy standard. In this *Order*, the Commission also required new Commercial Mobile Radio Service (CMRS) providers to comply with the Commission's more stringent handset-based location accuracy standard, regardless of the location technology they use.
- In a companion *FNPRM* to the *Order*, the Commission sought comment on improving both 911 availability and E911 location determination for Voice over Internet Protocol (VoIP) services. The Commission wants to ensure that all interconnected VoIP providers can provide automatic location information for VoIP 911 calls, rather than relying on the subscriber to register his or her location with the VoIP provider. The Commission is also seeking ways that location technologies that are already being developed for commercial broadband applications might be leveraged to support 911 location determination. Finally, the Commission sought comment on how to improve location accuracy for 911 calls made from indoors, including large office buildings where it may be difficult to locate an individual in trouble based only on a street address.
- Along with ensuring that consumers have access to critical communications during and after disasters, the Commission is taking actions to facilitate and expand emergency alert capabilities. The Commission worked with FEMA on the first-ever nationwide test of the Emergency Alert System (EAS) by television and radio broadcasters, cable systems, satellite radio and television service, and wireline video service providers that deliver EAS alerts to the American public. The purpose of this nationwide test was to determine the reliability of the EAS system and its effectiveness in notifying the public of emergencies and potential danger nationwide and regionally and to identify and correct potential shortfalls in the nationwide EAS system before an actual large-scale emergency occurs. Working with wireless communications service providers, the Commission continued its efforts to implement the Commercial Mobile Alert System mandated by statute. Nationwide introduction of commercial wireless alerting is scheduled to begin in April 2012.

- The Commission's Public Safety and Homeland Security Bureau continued to encourage licensees to make the system and licensing modifications necessary to meet the 2013 deadline for 12.5 kHz operations in the bands below 512 MHz. In 2010, the Bureau determined that only 28 percent of the 109,000 public safety pool call signs had converted to narrowband operation and initiated an aggressive outreach campaign, incorporating narrowbanding into the Bureau's core message. In December 2010 the Bureau hosted a workshop on the topic, launched a webpage, (which by August had received 32,000 hits) and created a dedicated email box. In April the Bureau sent over 32,000 letters to public safety licensees whose authorizations indicated that they had not yet narrowbanded. As a result, as of October 21, 47 percent of the 109,000 public safety pool call signs are ready for 2013, a significant increase.
- Under the Commission's long-running 800 MHz "rebanding" initiative Sprint Nextel Corp. is bearing the cost of relocating public safety and other licensees from the 800 MHz band in order to resolve the significant interference problems that the public safety licensees have been encountering from commercial licensees (primarily Sprint) in that band. As the initiative draws to a close, to date, 99 percent of the non-border Public Safety 800 MHz licensees have executed rebanding contracts with Sprint Nextel. Under these contracts, licensees retuned or replaced approximately 73,000 radios in the second quarter, raising the total number of retuned or replaced radios to approximately 1.3 million. Approximately 3,000 infrastructure units (base stations) were retuned or replaced in the same period.

***Maintain a clearinghouse of information for the public safety community.***

- As part of National Preparedness Month in September, the FCC and the Federal Emergency Management Agency (FEMA) released tips for consumers aimed at preparing them for major disasters when communications networks are more likely to be compromised, damaged, or congested. When disaster strikes, persons may need to call 911 for assistance, locate friends or family, or let loved ones know that they are okay. A fact sheet was developed providing two important sets of tips. The first will help the public prepare home and mobile devices for a disaster. The second will assist Americans to communicate more effectively during and immediately after a disaster.
- The rapid expansion and adoption of broadband services has created new reliability and security challenges. The Commission has identified key cybersecurity threats to our nation's communications infrastructure and critical sectors and is working in partnership with industry and all levels of government to address these new threats through the newly rechartered Communications Security, Reliability and Interoperability Council, a Federal advisory committee.

# ***INTERNATIONAL***

## ***Strategic Goal:***

*Commit to greater international engagement and cooperation.*

## ***FY 2011 PERFORMANCE GOALS***

- Be a world-leader by promoting sound policy worldwide
- Advocate U.S. spectrum interests in the international arena.
- Promote pro-competitive and universal access policies worldwide.

## ***FY 2011 PERFORMANCE HIGHLIGHTS***

### ***Be a world-leader by promoting sound policy worldwide***

- The FCC's International Bureau released the *International Broadband Data Report* in May, presenting comparative data on international broadband capability. The report provided data on broadband service plans and pricing in 38 countries (including the United States), representing a wide range of broadband markets, including countries of various sizes and population densities. The report's results suggest a correlation between broadband adoption and communities with larger populations, communities with higher population density, and communities with higher income. The data on average actual download speeds reported by consumers in U.S. and foreign cities show that some large European and Asian cities exhibit a significant edge over comparable U.S. cities in reported download speeds. Reported speeds for some other international cities, however, are roughly comparable to speeds in many U.S. cities.
- The International Bureau released an *Order* granting Globalstar's second-generation satellites access to the U.S. market. These satellites will provide two-way voice and data communications, with higher data rates than first-generation satellites. The Order also approved Globalstar's plan to re-deploy and integrate eight of its first-generation satellites with the 24 second-generation satellites, to create a 32 satellite constellation.
- On June 14, 2011, the Commission released an *Order* adopting rules to mitigate space-path interference between 17/24 GHz Broadcasting Satellite Service (BSS) systems and Direct Broadcast Satellite Systems (DBS) systems that operate in the same frequency band. In doing so, the Commission facilitated the introduction of the 17/24 GHz BSS, which should provide new and innovative services, including video, audio, data, and video-on-demand to consumers in the United States.
- On June 15, 2011, the Commission released the eleventh annual Orbit Act Report to Congress. The Orbit Act requires the FCC to report annually to Congress on the progress made to achieve the purpose and objectives of the Orbit Act. The Report describes the many decisions and activities undertaken by the Commission to implement the Orbit Act in the past 12 months.

- Participated in the Asia Pacific Economic Cooperation (APEC) Working Group that covered a number of issues including the implementation of Phase I (acceptance of test data) and Phase II (authorization of equipment) of the APEC TEL MRA with such countries as: Singapore, Japan, South Korea, Hong Kong, Chinese Taipei, China, Canada, Australia, New Zealand, Malaysia, Vietnam, and Thailand.
- International Bureau staff advocated for the international acceptance of innovative spectrum utilization technologies such as Software Defined Radio (SDR) and Cognitive Radio Systems (CRS) (i.e., White Spaces proceeding) in order to advance the efficient use of spectrum and to expand wireless broadband in the mobile service. This was accomplished through contributions to the ITU Study Groups tasked with the development of studies, reports, and recommendations on these issues.

***Advocate U.S. spectrum interests in the international arena.***

- The World Radiocommunication Conference (WRC) is a treaty-level forum held by the International Telecommunication Union (a U.N. agency) every three to four years. At a WRC, countries decide on the allocation of frequency spectrum to allow the deployment, growth or continued usage of all types of radiocommunication services. During WRC preparatory phase, long term goals and positions that would benefit the U.S. government and commercial industry are developed. In this process, the FCC's role is to advocate for the public interest consistent with U.S. policies, rules and regulations. To identify the public interest for various items to be addressed by WRC, the FCC organized the WRC Advisory Committee (WAC) to provide advice, technical support, and recommended proposals for the upcoming WRC-12 to the FCC. The WAC created four informal working groups to look at issues on the agenda for the WRC-12 which met 19 times during FY 2011. In preparation for WRC-12, the WAC met three times during FY 2011 and produced 28 draft proposals for the Commission. Public Notices were issued for all WAC meetings and the draft proposals produced by the WAC were placed on Public Notice for comment.
- The FCC reached agreements with Industry Canada and Mexico's Secretariat of Communications and Transportation for sharing commercial wireless broadband spectrum in the 700 MHz band along the U.S.-Canadian and U.S.-Mexican border areas. This will facilitate the deployment of mobile wireless broadband systems near these borders and will provide consumers in these areas with advanced opportunities for 4G high-speed mobile broadband access. The FCC also reached an arrangement with Industry Canada for sharing spectrum in the 800 MHz band, which will pave the way for completion of an 800 MHz transition along the U.S.-Canadian border. This will alleviate interference to public safety licensees in the band from commercial cellular licensees.
- The Commission adopted a 3<sup>rd</sup> *NPRM* proposing to finalize the Table of Frequency Allocations and technical rules for satellite systems in the 37.5-42.5 GHz band (the V-band). These actions propose to align our domestic allocations in the V-band with the international allocations and designations supported by the United States and made at WRC-2000 and WRC-03.

- FCC staff worked with international organizations such as the ITU and Inter-American Commission on Telecommunications (CITEL) to develop innovative and flexible regulatory solutions in the international spectrum regulatory framework to enable allocation of spectrum for broadband technologies.
- Commission staff participated with Mexican representatives in the May 2011 meeting of the Mixed Commission, also known as Comision Mixta Encargada de Resolver Asuntos de Radiointerferencia (CMERAR). This meeting is held to resolve cases of interference to FCC licensees, Department of Homeland Security and other Federal law enforcement agencies along the U.S./Mexican border. The Mixed Commission was formed in 1982 and is comprised of representatives from the FCC and the SCT (Secretaria de Comunicaciones y Transportes) of Mexico. This organization historically handles over 100 such cases each year involving both interference to U.S. stations from radio facilities operating in Mexico and interference to Mexican stations from similar operations in the U.S.

***Promote pro-competitive and universal access policies worldwide.***

- The Commission adopted a *NPRM* to eliminate outdated regulations governing agreements between U.S. and foreign carriers for delivering international phone traffic and to seek comment on other ways to protect against anticompetitive conduct by monopolistic foreign carriers. Established over 80 years ago, the International Settlements Policy (ISP) ensured fair treatment for U.S. carriers negotiating agreements with foreign carriers with market power. However, over the past 15 years global competition has significantly increased, new alternative traffic routing possibilities have emerged, and the average U.S. calling price for international phone calls has fallen from \$0.74 per minute to \$0.08 per minute. These changes have made the ISP less relevant and necessary to ensure fair competition. In some cases, the ISP may now be hindering attempts by U.S. carriers to negotiate agreements that reduce international telephone rates for American customers. This proposal would give U.S. carriers greater flexibility to negotiate agreements with foreign counterparts that reflect modern routing arrangements, resulting in lower rates for international calls.
- As part of its Data Innovation Initiative, the Commission eliminated more than 25 outdated and unnecessary reporting requirements related to international telephone traffic and revenue and sought comment on additional reforms to streamline and modernize remaining international data collections. In particular, the Commission eliminated the quarterly international traffic and revenue reporting requirements for large carriers and foreign-affiliated carriers, the annual circuit-addition report, and the telegraph toll division report. The Commission also eliminated the need to file separate international traffic and revenue reports for U.S. offshore points. The Commission concluded that the burdens to U.S. carriers of providing those reports now outweigh the benefits of this data.