

**Remarks of FCC Commissioner Mignon L. Clyburn
CompTel's Competition and Innovation Policy Summit
Washington, DC
February 24, 2015**

Thank you, Chip, for that gracious introduction. It is wonderful to join all of you this morning – especially now that we are in Sunshine! In case you didn't hear me, or for those who do not frequent our space, I'll reaffirm that the Sunshine Notice means as of now, no one can lobby me on the Open Internet proceeding. There can be no discussions about these issues with anyone at the agency, unless a Commissioner or staffer proactively reaches out to you, but trust me: I am not calling, texting or emailing anybody. So those you are interested in the outcome, stay tuned. The Commission meeting is this coming Thursday, 9:30 am sharp.

In all seriousness, I want to take a few moments and applaud CompTel for its leadership on policies that promote competitive choice in this nation. Chip Pickering has infused fresh perspectives and his leadership has broadened the scope of your membership. And of course, my former legal advisor Angie Kronenberg has done an outstanding job advocating on your behalf by properly focusing the debate on the many complex issues you face – as I knew she would.

Since my arrival, back in 2009, I have been encouraging the FCC to adopt policies to enhance and promote competition. While we still have a lot to do, much progress has been made. One thing I'm most proud of is my role in ensuring that the commercial wireless industry found a voluntary industry solution to the lack of interoperability in the lower 700 MHz band in the most efficient manner. Now more customers of smaller carriers can roam on AT&T's LTE network, and devices like the iPhone that used to work exclusively for AT&T, will work on other networks in the 700 MHz band.

I'm proud of this interoperability solution for a number of reasons. It proves that compromise is possible even when it seems out of reach; but it also shows that it's possible to reach a compromise in a manner that competitive and incumbent providers support. None of this would have happened, without the hard work, excellent negotiating skills and a tremendous leap by Chip Pickering. And what has been reaped? Benefits to companies and consumers months ahead of schedule. When the industry solution was announced, we did not anticipate seeing interoperable Band Class 12 devices until the end of 2015. However, I hear manufacturers are working with Sprint, and that Band Class 12 devices, are being deployed this quarter. And last month, because of the 700 MHz spectrum that the interoperability deal unlocked, T-Mobile just announced that it expanded 4G LTE coverage for its customers.

I'm hopeful we can continue the trend of promoting wireline competition for, in the end, it is consumers that benefit from more choice, more innovation and lower prices. But, competition does not necessarily happen organically – the advent of competition has often occurred because of policies that promote and encourage entry.

As I see it, promoting competition (and maintaining it where it exists) requires two things. One, we need to ensure access to the last mile and second, we need to promote deployment of networks, including removing any obstacles or impediments that may hinder deployment. Allow me to touch briefly on each of these issues. First, wholesale access. Access to the last mile is essential for robust competition, and our policies must be modernized to reflect the changes in technology. I'm pleased that Chairman Wheeler has made competition a priority and that the FCC confirmed that what is at the heart of the Communications Act – competition, consumer protection, universal access and public safety – will not change as technologies evolve.

The challenge before the FCC, today, is how to modernize our rules to reflect changes in the market while holding true to the Act's core values. Indeed, it is critical that technology transitions not be used as an excuse to reduce competition. Rather, we need to enhance and encourage further competitive entry.

So, just where do things stand?

Access to last mile facilities is key for competitors to reach end users and expand their network. Access to these facilities, generally referred to as special access -- remains largely tied to legacy technologies. Special access reform is something that I have been advocating the Commission tackle since I arrived here. And although it has been a long haul, the FCC finally received the special access data from the larger providers in late January. This is no small feat -- it's something that the FCC has called upon carriers to file for years. It is a large collection so staff needs time to review, but I look forward to a briefing on the analysis and final action later this year. Good data will help the FCC formulate good policies.

While the staff is analyzing the data, however, I am not advocating that we sit idle and wait. There are other issues of concern, including terms and conditions of special access tariffs, that may impact the ability of purchasers to migrate off of incumbent facilities, whether to use an alternative provider, or construct their own. This issue is ripe for action and I'm hopeful the Chairman will direct staff to evaluate options in parallel with the review of the special access data collection.

The Commission also recently launched a proceeding seeking comment on updating rules regarding incumbent's discontinuance of legacy technologies and copper retirement. It was important to me that the Commission clearly convey that technology transitions should not reduce competition. The Technology Transition NPRM not only makes clear that "[t]echnology transitions must not harm or undermine competition"; but the NPRM also tentatively concluded that incumbents discontinuing a legacy service, must provide competitive providers with "equivalent wholesale access on equivalent rates, terms, and conditions." I hope the Commission proceeds to adopt this tentative conclusion, and again, I believe the FCC can move to Order on this NPRM in the near term, while the staff is analyzing the special access data.

Second, for competition to flourish, we need policies to promote deployment and eliminate impediments that may hinder providers from doing so. It is quite simple that, in order to deploy networks, providers need timely access to rights of way and poles. The FCC has taken action in the past particularly with access to poles. But if impediments including prolonged delays for access to poles and rights of way remain, I believe the FCC has a duty to act. At the same time, federal rules for pole attachments apply only when states have not acted. So, this is an issue where federal-state partnership and coordination is important.

Another issue I believe we need to take a close look at is programming costs -- something that smaller providers and new entrants continually raise as an impediment. If providers lose money providing video and are unable to offer a bundle, this may impact their decision to deploy. While there is a debate regarding whether the FCC has the tools necessary to resolve all these concerns today, we do have the ability to take some action, and should do so speedily. I agree that the FCC might not be able to resolve all the programming access concerns and that the issue is also ripe, for evaluation as Congress considers, a Communications Act rewrite.

Finally, I want to call your attention to updates to the FCC's universal service programs, which have created opportunities to help spur deployment. You may not traditionally have thought of participating in our universal service programs, but I strongly encourage you to consider doing so. We

need competition in both urban and rural areas to provide choice and reduce prices and universal service funding may help make the business case work in more areas.

In December, the FCC overhauled its E-rate program to encourage world-class broadband connectivity to and within all of our schools and libraries across this country. The increase in the E-rate cap has received the bulk of the attention, but we also made some changes to facilitate deployment of robust, high capacity speeds, to schools and libraries. E-rate funds up to 90% of the cost of broadband depending on the level of poverty of the area, and once these facilities are deployed, the economics to extend the fiber into neighboring areas become much easier.

This is not just a theoretical statement or goal. Indeed, one of CompTel's members, FatBeam, has done this very thing. Founded in 2010, FatBeam operates in the smaller markets in the Pacific Northwest and Rocky Mountain regions. It entered markets by connecting schools with fiber, then leveraged the fiber to expand its services throughout the community. This demonstrates the ability to deploy and provide smaller markets with competitive options.

We also hope that CompTel members will participate in our Connect America Fund and connect unserved areas in rural America. In the FCC's 2011 universal service reforms, we adopted a competitive bidding process to provide universal service support to places, where incumbents decline to accept the terms and conditions of support, based on our cost-model. For the auction to be successful, we need as much competition as possible. We need more providers to participate in the process, whether by leveraging existing networks through schools, or by using the infusion of universal service support to expand their networks to new areas. We're still in the process of determining how to structure the competitive auction for universal service support. Outstanding questions remain and I encourage you to weigh in to ensure that we have the best record to move forward and adopt the permanent rules.

While we still have more to do, particularly when it comes to modernizing our rules regarding wholesale access, there is a lot of promise and opportunity and I look forward to working with CompTel on these issues.

Thank you.