Written Statement

of

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Chairman
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Thank you, Chairman Inouye, Vice Chairman Stevens, and members of the Committee, for the opportunity to be here with you today. I have a brief opening statement and then I look forward to answering any questions you may have.

Now is an important time for the Commission. I am pleased to report that since we appeared before you last, the Commission has moved forward on a number of significant issues for the benefit of the American people. The Commission has been working both on our own and in coordination with industry, other governmental agencies, and consumer groups to advance the digital transition and promote consumer awareness. Through all of our activities, the Commission is committed to ensuring that no American is left in the dark. In addition, our policies continue to facilitate steady growth in broadband deployment according to the Commission's latest high-speed data report. Importantly, we established rules for the upcoming 700 MHz auction, which represents the single most important opportunity for us to add another more open broadband platform. And finally the Commission has continued to work to remove barriers to entry by competitors in all of the sectors we regulate such as by providing franchise relief to incumbent cable providers, new entrants, and eliminating the use of exclusive contracts for video service in apartment buildings.

This hearing comes at a particularly appropriate time as we on the Commission - - with the guidance of members of Congress - - are grappling with some of the most important and difficult issues that we may face: namely the review of the media ownership rules and reforming the Universal Service Program. In both instances the Commission is faced with striking a balance between preserving the values that make up the foundation of our media and telecommunications regulations while ensuring those regulations keep apace with the technology and marketplace of today.

MEDIA OWNERSHIP PROCEEDINGS

It is not an exaggeration to say media ownership is the most contentious and potentially divisive issue to come before the Commission. It certainly was in 2003 and many of the same concerns about consolidation and its impact on diversity and local news coverage are being voiced today. And it is no wonder. The decisions we will make about our ownership rules are as critical as they are difficult. The media touches almost every aspect of our lives. We are dependent upon it for our news, our information and our entertainment.

A robust marketplace of ideas is by necessity one that reflects varied perspectives and viewpoints. Indeed, the opportunity to express diverse viewpoints lies at the heart of our democracy. To that end, the FCC's media ownership rules are intended to further three core goals: competition, diversity, and localism.

Section 202(h) of the 1996 Telecommunications Act, as amended, requires the Commission to periodically review its broadcast ownership rules to determine "whether any of such rules are necessary in the public interest as a result of competition." It goes on to read, "The Commission shall repeal or modify any regulation it determines to be no longer in the public interest."

In 2003, the Commission conducted a comprehensive review of its media ownership rules, significantly reducing the restrictions on owning television stations, radio stations and newspapers in the same market and nationally. Congress and the court overturned almost all of those changes.

There was one exception. The court specifically upheld the Commission's determination that the absolute ban on newspaper/broadcast cross-ownership was no longer necessary. The court agreed that "…reasoned analysis supports the Commission's determination that the blanket ban on newspaper/broadcast cross-ownership was no longer in the public interest." It has been over four years since the Third Circuit stayed the Commission's previous rules and over three years since the Third Circuit instructed the Commission to respond to the court with amended rules.

It is against this backdrop that the FCC undertook a lengthy, spirited, and careful reconsideration of our media ownership rules.

The Commission's Process

In 2003, when we last conducted a review of the media ownership rules, many expressed concern about the process. Specifically, people complained that there were not enough hearings, not enough studies, and not enough opportunity for comments and public input. When we began eighteen months ago, the Commission committed to conducting this proceeding in a manner that was more open and allowed for more public participation.

I believe that is what the Commission has done. First, we provided for a long public comment period of 120 days, which we subsequently extended. We held six hearings across the country at a cost of more than $200,000: one each in Los Angeles, California, Nashville, Tennessee, Harrisburg, Pennsylvania, Tampa Bay, Florida, Chicago, Illinois, and Seattle, Washington. And, we held two additional hearings specifically focused on localism in Portland, Maine and in Washington, DC. The goal of these hearings was to more fully and directly involve the American people in the process.

We listened to and recorded thousands of oral comments, and allowed for extensions of time to file written comments on several occasions. To date, we've received over 166,000 written comments in this proceeding.

We spent almost $700,000 on ten independent studies. I solicited and incorporated input from all of my colleagues on the Commission about the topics and authors of those studies. We have put those studies out for peer review and for public comment and made all the underlying data available to the public.

I also committed to completing the Notice of Inquiry on localism, something that was initiated but stopped under the previous Chairman. This included holding the two remaining hearings. All told, the Commission devoted more than $160,000 to hear from

expert witnesses and members of the public on broadcasters' service to their local communities. In addition, the Commission hired Professor Simon Anderson of the University of Virginia to produce an academic paper on "Localism and Welfare", which was made available on our website last December. I have presented to my colleagues a final report containing specific recommendations and proposed rule changes reflective of the comments and record produced by the inquiry.

Finally, although not required, I took the unusual step of publishing the actual text of the one rule I thought we should amend. Because of the intensely controversial nature of the media ownership proceeding and my desire for an open and transparent process, I wanted to ensure that Members of Congress and the public had the opportunity to review the actual rule prior to any Commission action.

The Changing Media Marketplace Today

The media marketplace is considerably different than it was when the newspaper/broadcast cross-ownership rule was put in place more than thirty years ago. Back then, cable was a nascent service, satellite television did not exist and there was no Internet. Consumers have benefited from the explosion of new sources of news and information. But according to almost every measure newspapers are struggling. At least 300 daily papers have stopped publishing over the past thirty years. Their circulation is down and their advertising revenue is shrinking.

At *The Boston Globe*, revenue declined 9% in 2006. The Minneapolis *Star Tribune* announced an ad and circulation revenue decline of $64 million from 2004 to 2007. *The Denver Post* saw a revenue decline of 15%. Tribune, owner of the *Los Angeles Times*, saw ad revenues decline 6% in the last year—a total loss of $47 million. At *USA Today*, the most-read paper in the nation, revenue declined 6.6% over the past year as the total number of paid advertising pages fell from 929 to 803. And the *San Francisco* Chronicle reported in 2006 that the paper was losing $1 million dollars—*a day*.

Newspapers in financial difficulty oftentimes have little choice but to scale back local news gathering to cut costs. *USA Today* recently announced it would be cutting 45 newsroom positions—nearly 10% of its total staff. In 2007 alone, 24 newsroom staff at *The Boston Globe* were fired, including 2 Pulitzer Prize-winning reporters; the Minneapolis *Star Tribune* fired 145 employees, including 50 from their newsroom; 20 were fired by the *Rocky Mountain News*; the *Detroit Free Press* and *The Detroit News* announced cuts totaling 110 employees; and the *San Francisco Chronicle* planned to cut 25% of its newsroom staff.

Without newspapers and their local news gathering efforts, we would be worse off. We would be less informed about our communities and have fewer outlets for the expression of independent thinking and a diversity of viewpoints. I believe a vibrant print press is one of the institutional pillars upon which our free society is built. In their role as watchdog and informer of the citizenry, newspapers often act as a check on the power of other institutions and are the voice of the people.

If we believe that newspaper journalism plays a unique role in the functioning of our democracy, we cannot turn a blind eye to the financial condition in which these companies find themselves. Our challenge is to address the viability of newspapers and their local news gathering efforts while preserving our core values of a diversity of voices and a commitment to localism in the media marketplace. Given the many concerns about the impact of consolidation, I recognize this is not an easy task. But I believe it is one that we can achieve.

Allowing cross-ownership may help to forestall the erosion in local news coverage by enabling companies to share these local news gathering costs across multiple media platforms. Indeed the newspaper/broadcast cross-ownership rule is the only rule not to have been updated in 3 decades, despite that fact that FCC Chairmen – both Democrat and Republican—have advocated doing so. In fact, Chairman Reed Hundt argued for relaxation in 1996 noting, "the newspaper/broadcast cross ownership rule is right now impairing the future prospects of an important source of education and information: the newspaper industry." *Application of Capital Cities/ABC, Inc.*, Memorandum Op. & Order, 11 FCC Rcd 5841, 5906 (1996). And as I mentioned, in 2003 the Third Circuit recognized this fact when it upheld the Commission's elimination of the newspaper/broadcast cross-ownership ban, saying that it was "no longer in the public interest."

As a result, I proposed the Commission amend the 32-year-old absolute ban on newspaper/broadcast cross-ownership. This proposal would allow a newspaper to purchase a broadcast station—but not one of the top four television stations—in the largest 20 cities in the country as long as 8 independent voices remain. This relatively minor loosening of the ban on newspaper/broadcast cross-ownership in markets where there are many voices and sufficient competition would help strike a balance between ensuring the quality of local news gathering while guarding against too much concentration.

In contrast to the FCC's actions 4 years ago, we would not loosen any other ownership rule. We would not permit companies to own any more radio or television stations either in a single market or nationally. Indeed this proposed rule change is notably more conservative in approach than the remanded newspaper/broadcast cross-ownership rule that the Commission adopted in 2003. That rule would have allowed transactions in the top 170 markets. The rule I propose would allow only a subset of transactions in only the top 20 markets, which would still be subject to an individualized determination that the transaction is in the public interest.

The revised rule would balance the need to support the availability and sustainability of local news while not significantly increasing local concentration or harming diversity.

Proposed Newspaper/Broadcast Cross-Ownership Rule

Under the new approach, the Commission would presume a proposed newspaper/broadcast transaction is in the public interest if it meets the following test:

(1) The market at issue is one of the 20 largest Nielsen Designated Market Areas ("DMAs");
(2) The transaction involves the combination of a major daily newspaper and one television or radio station;
(3) If the transaction involves a television station, at least 8 independently owned and operating major media voices (defined to include major newspapers and full-power commercial TV stations) would remain in the DMA following the transaction; and
(4) If the transaction involves a television station, that station is not among the top four ranked stations in the DMA.

All other proposed newspaper/broadcast transactions would continue to be presumed *not* in the public interest. Moreover, notwithstanding the presumption under the new approach, the Commission would consider the following factors in evaluating whether a particular transaction was in the public interest:
(1) The level of concentration in the DMA;
(2) A showing that the combined entity will *increase* the amount of local news in the market;
(3) A commitment that both the newspaper and the broadcast outlet will continue to exercise its own independent news judgment; and
(4) The financial condition of the newspaper, and if the newspaper is in financial distress, the owner's commitment to invest significantly in newsroom operations.

Ensuring Localism

The Commission also needs to ensure that communities are served by local broadcasters who are responsive to their needs. Establishing and maintaining a system of local broadcasting that is responsive to the unique interests and needs of individual communities is an extremely important goal for the Commission.

Last month, the Commission adopted an order requiring television broadcasters to better inform their communities about how the programming they air serves them. Specifically, television stations will file a standardized form on a quarterly basis that details the type of programming that they air and the manner in which they do it. This form will describe a host of programming information including the local civic affairs, local electoral affairs, public service announcements (whether sponsored or aired for free) and independently produced programming. With a standardized form and public Internet access to it, the public and government officials will now be able to engage them directly in a discussion about exactly what local commitments broadcasters are and/or should be fulfilling.

In addition, I have circulated a Localism Report and NPRM that addresses other actions the Commission can take to ensure that broadcasters are serving the interests and needs of their local communities. The rule changes that I propose are intended to promote

localism by providing viewers and listeners greater access to locally responsive programming including, but not limited to, local news and other civic affairs programming. Among other actions, the item tentatively concludes that:

- Qualified LPTV stations should be granted Class A status, which requires them to provide 3 hours of locally-produced programming;
- Licensees should establish permanent advisory boards in each community (including representatives of underserved community segments) with which to consult periodically on community needs and issues; and
- The Commission should adopt processing guidelines that will ensure that all broadcasters provide a significant amount of locally-oriented programming.

Increasing Diversity

In order to ensure that the American people have the benefit of a competitive and diverse media marketplace, we need to create more opportunities for different, new and independent voices to be heard. The Commission has recently taken steps to address the concern that there are too few local outlets available to minorities and new entrants.

Last month, we significantly reformed our Low Power FM rules in order to facilitate LPFM stations' access to limited radio spectrum. The new order streamlines and clarifies the process by which LPFM stations can resolve potential interference issues with full-power stations and establishes a going-forward processing policy to help those LPFMs that have regularly provided eight hours of locally originated programming daily in order to preserve this local service. The new rules are designed to better promote entry and ensure local responsiveness without harming the interests of full-power FM stations or other Commission licensees.

I believe it is important for the Commission to foster the development of independent channels and voices. Again, last month, the Commission took significant action adopting an order that will facilitate the use of leased access channels. Specifically, the order made leasing channels more affordable and expedited the complaint process. These steps will make it easier for independent programmers to reach local audiences.

I have also circulated an order that proposes to adopt rules that are designed to promote diversity by increasing and expanding broadcast ownership opportunities for small businesses, including minority and women-owned businesses. This item proposes to give small businesses and new entrants that acquire expiring construction permits additional time to build out their broadcast facilities. It also proposes to revise the Commission's equity/debt attribution standard to facilitate investment in small businesses in order to promote diversity of ownership in broadcast facilities.

In addition, among other things, the item would adopt a rule barring race or gender discrimination in broadcast transactions, adopt a "zero-tolerance" policy for ownership fraud, and commits to the Commission convening an "Access-to-Capital"

conference in the first half of 2008 in New York City. As with the localism item, I am hopeful that my colleagues will move forward on these proposals quickly.

The Commission is also working to ensure that new entrants are aware of emerging ownership opportunities in the communications industry. Recently, I sent a letter to our Advisory Committee on Diversity. I suggested that they help create educational conferences that will encourage communications companies that engage in transactions and license transfers to include small businesses, minorities, and women entrepreneurs, and other designated entities during negotiations on assets and properties identified for divestiture.

It is my sincere belief that all of these proposals together will serve the public interest, providing for competition, localism, and diversity in the media. My proposed change to the newspaper/broadcast cross ownership rule addresses the needs of the newspaper industry and helps preserve their local news gathering, while at the same time preserving our commitment to localism, diversity, and competition.

The Commission must strike the right balance between ensuring our rules recognize the opportunities and challenges of today's media market place and prioritizing the commitment to diversity and localism. I look forward to working with my fellow Commissioners to adopt rules consistent with these goals.

BROADBAND AND UNIVERSAL SERVICE

Continued Broadband Deployment

Broadband technology is a key driver of economic growth. The ability to share increasing amounts of information, at greater and greater speeds, increases productivity, facilitates interstate commerce, and helps drive innovation. But perhaps most important, broadband has the potential to affect almost every aspect of our lives – from where and when we work to how we educate our children and deliver healthcare.

The Commission has continued to make significant progress facilitating broadband deployment. The United States is the largest broadband market in the world, and our newest report finds continued dramatic growth. In 2006, high speed lines increased 61% compared to 37% in 2005. Today, more than 99% of the US population lives in zip codes having at least one broadband subscriber.

Since I became Chairman, the Commission has taken a number of actions to help spur broadband deployment. We removed regulatory obstacles that discouraged infrastructure investment and slowed deployment. We classified cable modem, DSL, BPL, and wireless broadband as "information services" not subject to legacy regulations. We streamlined the franchise process for new entrants and incumbent cable providers and banned exclusive contracts in MDU's to spur competition in the video market--competition which is *essential* to further investment in underlying infrastructure.

There is however, more work to be done. I have proposed the Commission take additional steps to better our broadband deployment efforts. We need to gain a better understanding of who has broadband and the nature of the broadband services being deployed in the marketplace. Last fall I circulated a number of proposals to my colleagues that would revise how we collect broadband information. These proposals would:

- Ask *how many* people have broadband per zip code, instead of only asking whether there is one person with broadband service per zip code.
- Revise our current definition of "high speed" from 200k and above to 1.5mbps to 3.0mbps to account for changes in technology, consumer demand, and the evolving marketplace.
- Collect information about different tiers of broadband service being offered in the market place.
    - First Generation data: 200k up to 768k
    - Basic: 768k to 1.5mbps
    - High Speed: 1.5mbps to 3.0mbps
    - Robust: 3.0mbps to 6.0 mbps
    - Premium: 6.0mbps and above
- Adopt a national broadband availability mapping program, with the objective of creating a highly detailed map of broadband availability nationwide. This program will facilitate activities of other broadband initiatives by federal and state agencies and public-private partnerships.
- Collect more accurate data on wireless broadband by separating out data "capable" handsets and counting the number of consumers with data (broadband) service plans.
- Finally, I have recommended that the Census Bureau include a question about household broadband in its American Community Survey.

Reforming Universal Service

The United States and the Commission have a long history and tradition of making sure that rural areas of the country are connected and have similar opportunities for communications as other areas. I believe our universal service program must continue to promote investment in rural America's infrastructure and ensure access to telecommunications services that are comparable to those available in urban areas today, as well as provide a platform for delivery of advanced services tomorrow.

With each passing day, more Americans interact and participate in the technological advances of our digital information economy. A modern and high quality communications infrastructure is essential to ensure that all Americans, including those residing in rural communities, have access to the same economic, educational, and healthcare opportunities. Thus the Commission has a responsibility to preserve and advance the benefits of universal service.

Extending Telemedicine and Rural Healthcare

One of the core principles of the Universal Service Fund is to enhance access to advanced services for health care providers throughout the nation. Deploying broadband for the delivery of telemedicine can enable patients to receive medical care without leaving their homes or communities. This may not seem like a big deal to those of us who need only drive a mile or two to visit our local doctor or dentist. But, it can mean everything to patients who live hundreds of miles from medical specialists or have limited access to healthcare in their own communities.

Last year, the Commission took action to address the lack of broadband for health care providers launching the Rural Health Care Pilot program. This program will provide funding for up to 85 percent of an applicant's costs of deploying a dedicated broadband network connecting health care providers in rural and urban areas within a state or region. It also provides funding for up to 85 percent of applicant's costs of connecting the state or regional networks to Internet2 and/or National Lambda Rail – dedicated nationwide backbones – as well as the public Internet. The Commission received an overwhelming response to this initiative. Regional and state health networks across the country submitted applications.

The Commission recently awarded more than $417 million dollars for the construction of 69 state-wide and regional broadband healthcare networks in 42 states and 3 U.S. territories. The networks will connect over 6,000 healthcare providers across the country, including hospitals, clinics, public health agencies, universities and research facilities, behavioral health sites, community health care centers, and others.

All of the networks will construct innovative and highly efficient regional broadband networks, either by building new, comprehensive networks or upgrading existing ones. All of these networks will be able to connect to the public Internet as well as to one of the nation's dedicated Internet backbones: Internet2, or National Lambda Rail.

The projects include large, multi-state networks connecting hundreds of facilities, as well as smaller networks, providing critical links to connect clinics in insular and isolated areas with health care specialists hundreds of miles away. These networks will enable everything from basic clinical care to the deployment of electronic medical records. By providing access to these telehealth networks, public health officials will be able to share critical information when responding to public health emergencies such as pandemics or bioterrorism.

The Rural Health Care program illustrates the singular importance of the USF and living up to our commitment to rural Americans. Telehealth and telemedicine services provide patients in rural areas with access to critically needed medical specialists in a variety of practices, including cardiology, pediatrics, and radiology, in some instances without leaving their homes or communities. Intensive care doctors and nurses can monitor critically-ill patients around the clock and video conferencing allows specialists and mental health professionals to care for patients in different rural locations, often hundreds of miles away.

Stabilizing Universal Service

Changes in technology and increases in the number of carriers that receive universal service support have placed significant pressure on the stability of the Fund. A large and rapidly growing portion of the high cost support program is now devoted to supporting multiple carriers to serve areas in which costs are prohibitively expensive for even one carrier. These additional networks in high cost areas don't receive support based on their own costs, but rather on the costs of the incumbent provider, even if their costs of providing service are lower. In 2000, such providers received $1 million dollars in support. Last year, they received almost $1 billion dollars in support.

I'm supportive of several proposals for fundamental reform that could help contain the growth of the fund in order to preserve and advance the benefits of Universal Service and protect the ability of people in rural areas to continue to be connected. I have circulated among my colleagues at the Commission an Order that adopts the recommendation of the Joint Board to place an interim cap on the amount of high-cost support available to competitive ETCs. I have also circulated a Notice of Proposed Rulemaking that would require that high-cost support be based on a carrier's costs in the same way that rural phone companies' support is based. I continue to believe the long-term answer for reform of high-cost universal service support is to move to a reverse auction methodology. I believe that reverse auctions could provide a technologically and competitively neutral means of controlling the current growth in the fund and ensuring a move to most efficient technologies over time. I also believe that reverse auctions could enable us to begin providing support for next generation services as well. Accordingly, I have also circulated among my colleagues a Notice of Proposed Rulemaking to establish reverse auctions.

Similarly, maintaining the stability of the universal service contribution system is an important responsibility. That is why we took several interim steps to ensure the stability of the fund by raising the wireless safe harbor and broadening the contribution base to include interconnected VoIP providers. The actions helped ensure that the contribution base reflects the current market realities and that contributions remain equitable and nondiscriminatory. I also remain committed to adopting and implementing a numbers based contribution system.

Wireless Broadband

The upcoming spectrum auction is perhaps the most critical step in bringing broadband to the widest range of Americans.

The Commission's rules for the 700 MHz auction are designed to facilitate a national wireless broadband service. A coalition of companies that support a national wireless broadband alternative—Intel, Skype, Yahoo, Google, DIRECTV, and EchoStar--urged the Commission adopt rules that would maximize the opportunity for a national wireless broadband service to emerge. They urged the Commission to make available at least one 11MHz paired block, offered over large geographic areas, with combinatorial bidding so that a national service could be established. The Commission's rules meet these requirements while providing significant opportunities for small and rural carriers to obtain spectrum at auction as well.

The license winner for about one-third of the spectrum will be required to provide a platform that is more open to devices and applications. A network more open to devices and applications will benefit consumers nationwide by giving them greater choice and control over their wireless experience. Consumers using this new open platform will be able to use the wireless device of their choice and download whatever software they want. Currently, American consumers are too often asked to throw away their old phones and buy new ones if they want to switch cell phone carriers. And when they buy that new phone, it is the wireless provider, not the consumer, who chooses what applications the consumer will be allowed to use on that new handset. Wireless consumers in many other countries face fewer restraints: for example, they can take their cell phones with them when they change carriers; and they can use widely available Wi-Fi networks – available in their homes, at the airport or at other hotspots – to access the Internet. An open platform will ensure that that the fruits of innovation on the edges of the network more swiftly pass into the hands of consumers.

I believe our efforts may already be having an impact. Recently, Verizon Wireless announced its plans to introduce a new option for customers throughout the country – an option that will allow customers to use any device and to use any applications that they choose on the Verizon Wireless network. That announcement, along with the Open Handset Alliance's previous announcement of an open platform capable of working on multiple networks, is a significant step towards fulfilling the goal of a more open wireless environment.

Meeting the needs of public safety is also critically important. During a crisis, public safety officials need to be able to communicate with one another. We are all aware of problems caused by the lack of interoperability for public safety during recent crises like 9/11 and Hurricane Katrina. To that end, the upcoming auction will help create a truly national interoperable broadband network for public safety agencies to use during times of emergency.

CONCLUSION

The United States is in the midst of a communications revolution, and the Commission is committed to ensuring that our values keep up with our technology. At the Commission, we are working to ensure that no community gets left behind, and that the benefits are felt across the country in rural and urban areas alike. We are also committed to maintaining the stability of both traditional and new forms of media and newsgathering.

I look forward to answering any questions you may have.