

**Remarks of Michael K. Powell  
Chairman, Federal Communications Commission**

**Dialogue with Thomas Wheeler, President CTIA  
At the  
National Association of Cellular Telecommunications &  
Internet Association (CTIA)  
Orlando, Florida  
March 19, 2002**

MR. WHEELER: We talked yesterday about some of the unheralded activities of wireless telecommunications. I really believe that by the time we stand here next year we will be looking at a laundry list of ways that wireless has aided in the new national priority of homeland defense.

One of the key policy makers in Washington that has to deal with this new issue that got loaded on his plate, in addition to everything else, is the Chairman of the Federal Communications Commission. We are grateful that he would come to Orlando today, work us into his schedule and share some of his thoughts with us.

Will you please welcome Chairman Michael Powell.

CHAIRMAN POWELL: Good to see you, Tom.

MR. WHEELER: Yesterday we spent a bit of time here talking about the new world that wireless has created, the new regulatory environment in which we need to exist, breaking old habits, this kind of thing. You're the boss. You're the chief regulator. You're the guy everybody looks to. What are your thoughts?

CHAIRMAN POWELL: Well, I think that wireless is an extraordinary success story, and I think one of the things that it's entering into, the period it's entering into now, is in some sense managing the fruits of its success.

I remember when I first started at the Commission almost five years ago wireless was a wonderful technology people were excited about, but it had that sense of being the new entrepreneur, innovator, disrupting technology. I think it has now matured to the point where consumers and policy makers see it as a seriously matured service on which consumers have great reliance, which government has great reliance on, as evidenced by the homeland security focus on it.

I think that puts it in another category of focus, both good and bad. I don't think that that should be perceived as an effort to be focused on regulatory and prevention, but a focus on the prospects and the possibilities of wireless for enhancing the welfare of consumers.

So, I think you'll see a lot more attention to the industry, a lot more attention to the technology, and a lot more attention to the policy. With that comes, I think, new and wonderful benefits and opportunities, but also some risks that have to be managed, and I think the industry and the

association do a pretty good job of that,

MR. WHEELER: You talked about the five year window that you've had. The wireless industry may be a 20 year old business going back to 1983, a 19 year old business. But in reality it's the last four years where we've seen all the action. We've had over half of the subscribers added in the last four years. We've had over half of the capital investment, \$50 billion, in the last four years being invested. How do we communicate to policymakers the fact that this is very much a work in progress, and that what you do can affect the outcome of that work in progress? We're not at the end of the road.

CHAIRMAN POWELL: I think you have to be an articulate spokesman for that view, but I think it's more appreciated than you might suggest.

I know at the Commission we often talk about the wireless industry as our poster child about our principles, about competitive markets, market economics and the benefits of the competitive model, because I think when you look at all the industries that we regulate at the FCC, none is as competitively healthy from our perspective --- a regulatory perspective --- as the wireless industry.

But it's a continuing dialogue. As I said in the opening comments, I think as you begin to be a real substitute to the wire line service, people have serious reliance on those services and have an expectation about them. We will hear more about both the good things and the bad things, and we need to be cognizant in our own policy judgments that it is a work in progress, and that there are certain problems that ought to be perceived as short term and not necessarily calling out for a regulatory solution.

On the other hand, to be responsible government officials, we do need to take a counting of those things and keep our eye on them if they're the kinds of things that will ultimately warrant some government response. But, at least under my philosophy and I think those of my colleagues, that's a reluctant trigger, not an affirmative one.

MR. WHEELER: I think one of the concerns that the industry has, one of the concerns we hear on Wall Street, for instance, is that last year, as an example, the free cash flow in this industry was a negative \$4.7 billion, and out of that we financed \$21 billion in improvements, expanding coverage, expanding services, moving to the next generation of activities.

Folks are asking the question. I've only got a finite pot of capital. Should I put it into doing those kinds of expansion activities, or do I have to constantly deal with the government coming in and saying, "No, I want you to redirect capital and go over here?"

CHAIRMAN POWELL: No. I don't think that you have to constantly deal with the government saying, "come in and redirect capital here." But it would be unfair not to suggest that, as there are with every industry in the economy and every industry certainly in the communications space, there will always be certain government policies and mandates that cost money.

That is a way of life, I think, whether we want that or not, just as I think there are things that

Ford Motor Company has to do as a consequence of government policy that will cost them money. I think you can't completely eliminate that proposition.

I also think that, at least at the Commission and I think in government in Washington in general, there is a pretty rich understanding of how deeply depressed the capital markets are in the telecommunications space. In many ways, I told Tom yesterday, I've been waiting for his call. Every other industry that I regulate got here a long time ago.

The liquidity crisis and the capital crisis is very severe in the telecommunications space on the wire line side, in the cable industry and advertising revenues in broadcasting. You pick your industry that's under my portfolio, and all of them would say nearly identically the statement that you just said, and I think wireless is not completely immune, but I think better positioned than most. It's just pulling up to the dock with these concerns.

All we can ask is that government be sensitive to those realities, sensitive to the capital crisis, sensitive to the moment in time and be very, very careful about imposing what amounts to unfunded mandates or at least have some reasonableness with which it pursues policies that it must, but be sensitive to the capital constraints of the private commercial actors.

MR. WHEELER: The least bad is kind of like kissing your sister.

CHAIRMAN POWELL: I don't know your sister. Maybe it's not.

MR. WHEELER: Let's look at that as an example. With the kind of thing you were just saying. Okay, expect that there's going to be some government involvement in your life. I think that this is an industry that has demonstrated their desire to do the right thing. But I also think this is an industry that as a result of doing the right thing has gotten some burns on its fingers or scars on its back.

The E-911 issue, for instance. I mean, it was CTIA that sat down with the public safety community and worked out a solution to E-911, came to the Commission, petitioned you to adopt it, and you adopted it. In the intervening years, however, the Commission then changed that, and a key component of it was, "okay, how do we make it work?"

The Commission then nibbled away at it and changed it to a point where the ability to deliver was then impacted, and now we're being castigated for not being able to deliver this changed priority. How do we get into a situation where we do the right thing, but without the expectations that somehow it's going to turn around and bite us in the tail?

CHAIRMAN POWELL: Well, that's a tough one. First of all, I applaud CTIA and this industry for doing the right thing on E-911 because I think, to be perfectly Machiavellian, if you hadn't someone was going to do it to you.

The greater reliance of consumers on the handsets and mobile uses as a substitute wire line was going to mean increasing pressure for insuring that that kind of national emergency functionality was available. So I think, number one, it was prescient for the wireless industry to see that possibility and

both do the right thing and for its own, I hope, good moral reasons want to come forward and do that and engage the government in coming up with a solution.

Just like company to company, the government is its own institution, and it has its own values. They're not always perfectly synonymous with those of commercial interests --- surprise --- and sometimes there are changed expectations or greater priorities placed on government than the industry. I just think that's something that gets worked out, hopefully quietly but effectively, but with some sincere commitment to the objectives.

The other thing you can't do in Washington, and I've been trying to figure out how my whole life, is that you can start little brush fires, but it's very difficult to keep them completely controlled when policymakers and politicians latch onto an issue from a consumer constituent interest focus. I think it's more like wild fire management. Sometimes you have to let those fires burn a little out of control, but within certain parameters.

I think something like E-911 was always going to be of interest to consumers and was always going to then as a consequence, be of significant interest to Congress. This is an area where we hear from congressional members quite extensively, and so the government definitely sees this as an important part of this policy and an important part of making it happen. I think that's how you get into that circumstance.

I don't think, though, that the industry is being castigated, frankly. I think there have been some incidents where we've been a bit tougher on some carriers who were struggling to get through, but I don't think irresponsibly or unfairly so. Indeed for most of the major carriers, with respect to technical difficulties, we worked with them to develop waiver policies that allowed them to move forward in a constructive way.

But it is my job to be a persistent pusher and an urger to keep that going because I know that commercial priorities compete and so we will continue to do that as well. But I actually applaud the industry, and rather than castigate we hope our responses are measured.

MR. WHEELER: You had your trip before the Senate in the last week or so. We had our trip before the Senate on the E-911 issue as well. Lots of finger pointing and lots of, "why aren't you" kind of activity that is, again, a result of starting out to try to do the right thing.

But let's take it to today. Priority access. I mean, the weekend after September 11<sup>th</sup>, I start getting calls at home from folks in the White House saying we've got to have priority access to wireless networks. We stepped up and said yes, there's got to be a way, this is good for America.

There are now working through the process, as you know, multiple carriers who are voluntarily entering into agreements to provide priority access. I mean, the ink isn't dry on those, and already people are stepping up and saying that now you're going to have to have some kind of a bold statement on your contract with the consumer that says "Caution, in case of emergency you may not be able to use as much of this."

People are talking about petitioning the Commission to make sure that there's priority access for other levels of emergency services. The New York Fire Department responded to your inquiry on this saying, "well, we have to have priority access for every single firefighter in New York." You try and do the right thing, and the next thing you know there's this landslide coming at you.

CHAIRMAN POWELL: Let's be candid. The landslide occurred on September 11, and that landslide and the repercussions and the tremors have been felt ever since.

You know, it's important to remember that priority access is not something that showed up in the wake of 9/11. It was something that the Commission adopted rules on many years ago with the anticipation that there could be situations in which it was required.

The Commission did so in a way that was voluntary, a principle that I remain committed to, and allowed the government entities --- I should be clear --- we're not the ones that are asking to contract for priority access, other government institutions are. But we set up a model for that. Candidly, very little happened in those intervening years either with the carriers or between the carriers and the government because the situation had not really arisen in which the emphasis was placed on it.

When people say September 11 changed everything, I think that's a fair statement in this area, too. Suddenly there was a tangible experience, a real life, critical experience in which people saw the value of it. All of a sudden something that, frankly, has been around a long time in theory became really important as a priority. When it did, it raised the consciousness, with it, not only of government but of anyone who has their own pet idea about what the service ought to be.

That doesn't trouble me. That's the natural cacophony of policy making. We can't guarantee that waves won't rattle, but what we do is we steer the ship through them. Some of them, you know, we reject, and some of them we take on board, but you have to judge these actions at the end of the day not by the noise people will make about things they'd like to see happen, but what the government actually does.

I think in this case, for example, the government has been fairly responsible. For example, the White House didn't say we're going to insist on this in a mandatory, unfunded way. I find it really interesting that the federal government secured several hundred million dollars in order to pay for some of the expenses associated with priority access. I think that's a very positive reflection of their understanding that it will cost carriers money, and if it is a federal issue the federal government ought to be committed to it in a monetary sense as much as a kind of emotional sense.

I hear all those things, too, about why don't we do this and why don't we do that. That doesn't surprise me, but it only says, that those will be things that are in the mix, and we'll manage through them. I can't predict what is or isn't there, but I think reading the noise is dangerous. It's not necessarily correct.

MR. WHEELER: Cacophony. That's a great concept of the world in which you live.

Yes, the President's budget has \$60 million in it for wireless priority access as a part of this

several hundred million dollar package for communications. But isn't there also a spectrum component we have to deal with? I mean, the reality here is that the federal government is saying that we want part of your capacity in important times.

That is going to impact consumers, and the federal government has the ability to fix that right now by adding new spectrum, by breaking loose additional spectrum so that in essence you could have almost an offset. Doesn't this quickly take us into spectrum policy, and isn't this another reason why we need to free wireless spectrum now?

CHAIRMAN POWELL: I think so, but it's a bit of a deceptively simple story.

MR. WHEELER: A deceptively simple story?

CHAIRMAN POWELL: As we know, the reason it's deceptively simple is it seems intuitively correct. Tom just crossed four jurisdictions and five branches of government in one sentence.

MR. WHEELER: In one breath. That's right.

CHAIRMAN POWELL: That's what makes spectrum hard. I wish I was king for a day, but when it comes to spectrum policies not only does the Commerce Department have a central role in it with respect to government users, but you have these huge client groups, if you will, at the Department of Defense, the Department of Transportation, that are their own power centers, that have their own jurisdictions, that have their own leadership, that have their own political power, and it's just messy.

There's nothing clean about this. It is an infantryman's crawl to keep trying to find more spectrum, but one I think that we are very, very committed to in working with Commerce to continue to push through.

Trust me. I've been in those wars. I was in those wars for ultra wideband. I've been in those wars for other issues when you have to go into the interagency process and make the case that the government's best interest is balanced on the whole by this kind of idea.

I think those kinds of things are on the table. They're being pushed probably much slower than you would like, but I think pretty persistently and pretty aggressively.

MR. WHEELER: We've got to move from an infantryman's crawl to a blitzkrieg, Mr. Chairman, and I appreciate what you're doing in that exercise. The White House is providing significant -- I mean, it is clear that at the senior levels of the White House there is significant effort being expended to try and get us out of this kind of internecine situation.

The fact of the matter is, though, that aren't we in a situation where --- you referenced ultra wideband, for instance? You and your Commission have been talking about flexibility of spectrum. Ultra wideband is an example of flexible use of existing spectrum and other application, MMDS, what you did there. There is increased discussion about taking satellite spectrum and making it terrestrial.

Isn't there a job for government to draw the four corners of how you expect spectrum to be allocated and to be used and not just say well, let's just be flexible. And doesn't that flexibility concept contrast with the concepts of let's go into the marketplace and tell you that you're going to behave this way in relation to consumers, but over here in terms of the thing that we in government are responsible for we're going to be flexible?

CHAIRMAN POWELL: I don't know if I follow the question, but, no, I don't think so. I actually think that some degree of flexibility is a critical component of any policy or philosophy that has a market component to it. One of the biggest problems, I think, that's going on in government and the allocation policies are the fact that we can't get spectrum to its highest and better uses quick enough.

Doesn't this DOD process convince anybody of the slog of government always being asked to come back into the game, take from somebody, move it over here, figure out how to pay these people, figure out how to provide suitable spectrum for them to move to, get all the money to move, and all of this is supposed to happen in internet time at a time when business opportunities are limited and fleeting.

The reason I think the Commission has been focused on thinking about flexibility and how to introduce it is so that we can create much more flexible market mechanisms, including secondary markets and other ways in which we can limit our intercession in getting spectrum to higher and better uses.

If you ever get that little PDA thing to work, and I'm sure you will, --

MR. WHEELER: It worked real well in rehearsal.

CHAIRMAN POWELL: -- and you come up with some wonderful new thing to do with it, you're going to want to get to that place quickly, and you're going to have a strain in the government allocation policy.

It's interesting. Flexibility can be seen like goading oxen at times. But it can also be seen as very beneficial. You cited examples rightfully that I know your industry is probably concerned about. But perhaps the greatest example of the Commission's commitment to flexibility was allowing cellular to develop into PCS, which I think was an enormous benefit to everyone in this room and to the industry so it's a principle that we're committed to in all of its derivations, but it doesn't predict an outcome.

MR. WHEELER: But there's a difference between wireless being mobile, and wireless being fixed, and satellite service suddenly being terrestrial service. I guess we go back to the opening thing we were discussing here, which is the economy and the economic realities. Shouldn't one have some trepidation that here the wireless carriers are out paying bundles of dollars at auction for spectrum, while at the same point in time additional spectrum for competitive services is coming in with no capital cost to have to buy it from the government? Isn't there a dichotomy there that we've got to address before it creates the next problem?

CHAIRMAN POWELL: Yes, but it's important to note that the dichotomy is one that Congress

created for reasons of its choosing. It's not Commission policy. It's the statutory environment that exists that permits orbital and satellite-based spectrum that can be used for certain purposes to be free of auction.

We have other categories of spectrum users who are free of auction obligations as well; for example, public broadcasting and potentially aspects of public safety.

MR. WHEELER: And commercial broadcasting.

CHAIRMAN POWELL: Yes, and non-educational broadcasting and commercial broadcasting.

So, there is sort of this odd hodgepodge of allocation choices in spectrum management writ large. When I think of spectrum management I just don't think of the wireless industry, CTIA and its members. I'm also thinking about broadcasting and satellite and the unlicensed bands and a whole lot of other uses that are increasingly in our field of vision.

I think that we do have challenges because there are different policy judgments in the statutory regime about the allocation within each of those. But increasingly they are competitors, and increasingly they are often vying for the same swath of real estate for different purposes. This is becoming a very big challenge for the government, and I would agree with you that I think that in some length of time the government has to start to figure out a conscious policy for the reconciliation of some of these conflicts.

Right now, including in the proceedings you're referring to, though, I'd like to emphasize that no decisions have been made on any of them. But one of the things you see the Commission doing is dealing with the messiness of these conflicts through band-aids. People bring in innovative stuff, and we have to examine them and see whether they can work in the context of what we have. But that masks the bigger question, which is whether there needs to be a more coherent spectrum management policy generally so that some of those conflicts are more consciously reconciled, as opposed to sort of case by case iterative. That's one of the things we're working on, too.

MR. WHEELER: Clearly we need a ten year spectrum plan or some period of time that says, "here's where we're going to be" that we update every couple of years along the way based on what's happening in technology. We've got to quit this kind of hodgepodge.

I agree with you that it's an issue that Congress has to address first. They've handed the bag to you, but I hope that together we can work to tell the Congress, excuse me, guys; we've got to be consistent across this, and not end up picking economic winners and losers by the way in which we allocate spectrum.

CHAIRMAN POWELL: This is a centerpiece of our own policy. We have a new spectrum task force we just set up with the express mission of kind of "greenfield" examining our spectrum management policies, our allocations, and trying to come up with a more coherent framework that we can employ within the current statutory framework. But, more importantly, I think the Commission does need to see itself as an expert agency that advises other branches of government about the challenges of



its policies and about things that may need short, mid and long-term attention.

I think we do need long-term policy. I'm not so sure we need a ten year plan. We'll ask Mr. Gorbachev about ten and five year plans. But I do think there is a need for a long-term policy, and I do think that this task force and some of the efforts that are underway working with your associations and others is going to take a pretty good crack at that.

MR. WHEELER: Mr. Chairman, we could sit here all morning and cover a laundry list of issues. You are always incredibly forthcoming. We appreciate very much your coming here and sharing these thoughts, thinking out loud, if you will, and we look forward to continuing to work with you to tackle some of these challenges.

CHAIRMAN POWELL: My pleasure. Thank you, Tom.

MR. WHEELER: Thank you, Mr. Chairman.