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The Future of Spectrum Policy

by

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On July 29, the Senate Commerce, Science, and Transportation Committee is holding a hearing titled “Wireless Broadband and the Future of Spectrum Policy.”

I know. A hearing on spectrum policy may not seem that titillating. Nonetheless, getting spectrum policy right is crucial if the United States is to enhance the health of its economy as well as maintain its global leadership in the wireless communications sphere.

“Spectrum” simply refers to the bands of airwaves, or radio frequencies, used to carry various types of communications, including the information sent and received by today’s ubiquitous, ever more powerful smartphones. The federal government controls the use of the airwaves, not only those used for its own purposes, but also those used by the private sector.

Before addressing some key issues that the Senate committee should consider at its hearing, some factual context is important. At the end of 2014, there were over 350 million wireless connections in the U.S. Astonishingly, according to government figures, more than 40% of U.S. households now rely exclusively on wireless for telephone service.

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And 98% of Americans have access to fast “4G” wireless broadband networks, so it is not surprising that mobile data traffic is increasingly exponentially, driven in large part by the surge in videos consumed by wireless subscribers on their smartphones, tablets, and laptops. Indeed, Cisco, which issues well-regarded annual reports tracking mobile data usage, predicts that data traffic will increase sevenfold between 2014 and 2019.

Of course, the rapid increase in the number of wireless subscriptions and in the amount of traffic has required unceasing investment by wireless companies. Last year, they invested more than \$30 billion to expand and upgrade their networks. Over just the past six years, the total investment in wireless networks exceeds \$160 billion.

Significantly, the growth in investment has occurred in a competitive marketplace environment in which the operators are forced to respond to evolving consumer demand for faster speeds and innovative services. Over 90% of the U.S. population has a choice of four or more wireless providers.

So, when the Senate committee meets to consider spectrum policy, what should be its focus?

The spotlight should be on two areas. Avoiding unnecessary and costly regulations of wireless operators and ensuring that sufficient additional spectrum is made available to accommodate the projected steep increase in mobile broadband traffic.

Regarding regulation, despite all the evidence of marketplace competition, the current FCC appears intent on interjecting itself intrusively into the business practices of the service providers. Rather than relying on existing competition to protect consumers, the FCC has decided, for the first time, to impose so-called Communications Act “Title II” net neutrality regulation on wireless operators. The new rules, which include “non-discrimination” and “anti-prioritization” public utility-like mandates, in theory, may sound superficially appealing. But, in reality, they likely will constrain the way providers manage their networks to achieve the most efficient, cost-effective delivery of an increasing amount of traffic.

The result of classifying wireless operators as Title II public utilities almost certainly will mean that the operators will incur increased costs, and even new taxes. These will be passed through to consumers in the form of higher prices. And, as significantly, increased regulation likely will deter the providers from investing as much in new facilities as they otherwise would. At the same time, they will be forced to use existing facilities in ways that are sub-optimal from an efficiency perspective.

As for sufficiency of spectrum, there is real work to be done by the government if the projected spectrum needs are to be met in the years ahead. A just-released study prepared for CTIA-The Wireless Association by the Brattle Group forecasts that, by 2019, to support mobile data traffic demand, the U.S. will need more than 350 MHz of additional licensed spectrum, above and beyond any presently available or identified.

Thus, the government faces a daunting task – and it does no good to ignore the fact that the Obama Administration is lagging in fulfilling its 2010 pledge to make available 500 MHz of new spectrum suitable for wireless use by 2020. In 2010, when President Obama established the 500 MHz goal, there were high hopes the federal government, with a seriousness of purpose, would take the steps necessary to identify underutilized spectrum bands and reallocate those frequencies for exclusive use by private sector operators.

Not nearly enough has been accomplished. Instead of focusing on reallocation, the Obama Administration has tilted towards promoting government-private sector sharing of frequencies. While sharing is feasible in some instances, it does not enable as much commercial utilization as reallocation. Nor does it provide the permanence and security that encourages investment in new facilities and innovation.

So, when the Senate committee convenes on July 29, there will be important matters to consider. There is no gainsaying that today's wireless ecosystem in the United States is healthy and competitive, with consumers enjoying the benefits of faster speeds, more innovative services, and decreasing prices.

But there is also no denying that if the FCC succeeds in increasing regulation of wireless operators and the government fails to take steps necessary to make available sufficient spectrum to accommodate rapidly increasing traffic demands, America's consumers, and, indeed, the nation's economy, will be the losers.

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