



November 22, 2013

Via Electronic Mail

The Honorable Thomas E. Wheeler
Chairman
Federal Communications Commission

Dear Chairman Wheeler:

Congratulations on your recent confirmation as Chairman of the Federal Communications Commission. I would like to extend my best wishes as you assume leadership of an agency that is vitally important to our nation’s small businesses. Many of the issues the FCC will be confronting over the coming months are at the heart of the Small Business Administration Office of Advocacy’s mission to ensure that federal regulation preserves the ability of small businesses to compete and innovate in today’s economy.

In October of 2010, Advocacy published a congressionally requested study titled “The Impact of Broadband Speed and Price on Small Business” (Columbia Telecommunications Corporation, 2010). From the study, we learned that small businesses believe broadband service is as important to their businesses as basic utilities like electricity. We also learned that small businesses are largely dissatisfied with the affordability and choices offered to them in the broadband market. The results of our broadband study affirmed the decades-long efforts of our office to advocate for telecommunications policies that promote the kind of competition in the marketplace that will meet the growing small business demand for affordable telecommunications and broadband services.

Since 2010, Advocacy has filed public comments with the FCC regarding a number of important broadband policy issues, including special access, copper retirement, mandatory data

roaming, and mobile device interoperability. Advocacy has also forwarded small business concerns to the FCC in other rulemaking proceedings where we believed additional flexibility was required for small businesses subject to the FCC's rules, including rules regarding the use of 121.5 MHz electronic locator transmitters on aircraft, and rulemaking implementing the Communications and Video Accessibility Act. The FCC has made substantial progress on some of the above issues and Advocacy urges you to continue to move the FCC forward on several issues that will continue to be priorities for small businesses.

Advocacy was pleased to see the FCC reinforce its commitment to evaluating the special access market by suspending automatic pricing flexibility grants until it has completed its review. A competitive special access market is vitally important for the provision of affordable and innovative small business broadband services, in both the wireline and wireless markets. Advocacy believes that, in addition to releasing the long-awaited special access data request ordered by the FCC last year, the FCC should also examine whether certain terms and conditions in special access contracts, commonly referred to as "demand lock-up" terms, are creating competitive barriers in the special access market. If so, small business consumers may be facing higher costs for broadband services than they would if the FCC restricted the use of such terms.

As technology evolves toward an Internet Protocol (IP) based communications network, quality and affordability of access should not only be preserved but also improved upon. While Advocacy commends the FCC for committing resources to examining the ongoing IP transition, Advocacy is concerned that the FCC has not yet clarified the obligations of carriers to interconnect with competitors under sections 251 and 252 of the Telecommunications Act. Failure to clarify this obligation has already served to restrict the options available to small business consumers, especially in areas where incumbent carriers have already transitioned to fiber facilities and packet-switched technology. We also urge the FCC to examine how retirement of legacy copper facilities affects small businesses, especially in markets where there are few or no alternative service providers.

Additionally, Advocacy believes the FCC should examine how recent reforms to the Universal Service Fund (USF) are impacting small businesses in rural areas—while the USF was

in need of reform, it is imperative that such reform does not result in higher costs and decreased access to services for rural small businesses. Small wireline and wireless companies serving rural areas are providing much needed services to small businesses and the FCC must ensure that service is not degraded. Specifically, Advocacy has heard growing concerns from small wireless carriers regarding eligibility for Phase II mobility fund support, as well as persistent complaints from rural local exchange carriers regarding the use of Quantile Regression Analysis to establish high-cost USF caps.

Small businesses are increasingly looking to mobile broadband as a compliment to their wired broadband service—competition in the mobile broadband market must be ensured by sound FCC auction policy. The upcoming broadcaster incentive auction (600 MHz) presents a unique opportunity for the FCC to energize the mobile broadband market. Competitors view this auction as possibly the last opportunity to acquire significant amounts of low frequency spectrum—spectrum which will enable competitive carriers to offer better choices to small business consumers. We urge you to examine policies that will ensure competitors have a meaningful opportunity to purchase this spectrum. Namely, we ask that you to consider seriously the possibility that imposing a cap on the amount of sub-1Ghz spectrum any one carrier may acquire will increase participation in the auction, drive greater auction revenues, and provide further opportunities for competition to flourish in mobile broadband. Advocacy shares the concerns of the Department of Justice with regard to industry consolidation and believes this auction may offer an opportunity for the FCC to correct course.

Advocacy has also heard from a number of small wireless carriers who have indicated that they will not participate in the 600 MHz auction unless the FCC offers cellular market area (CMA) based licenses. We encourage you to conduct further outreach with small wireless carriers on this issue, and stress that the FCC must fulfill its obligation to ensure small business access to the auction. Small wireless carriers often serve rural areas with limited options, and Advocacy supports auction policies that continue to ensure their ability to offer rural small businesses affordable choices.

Finally, small innovative firms are looking to unlicensed wireless spectrum to develop new technologies. Advocacy believes that setting aside some of the 600 MHz spectrum for unlicensed use is a wise investment that could provide the foundation for small innovative firms to grow and create new jobs. Advocacy has begun some preliminary outreach to identify small start-up companies that could benefit from unlicensed set-asides, and looks forward to sharing what we've learned about them in the near future.

As you assume leadership of the FCC, we encourage you and your fellow Commissioners to explore new avenues for the FCC to interact with the small business community. Our office has a deep network of small business stakeholders and we would be happy to assist the FCC with its efforts in this area by hosting small business roundtables and workshops as needed. Additionally, we believe the FCC could benefit from establishing a small business advisory committee with representation from various sectors of the small business community whose focus would be to provide further insight into the evolving needs of small business consumers. At the very least, the FCC could benefit from having a small business voice from one or several national small business trade associations on its Consumer Advisory Committee.

Again, it is my pleasure to congratulate you on your confirmation. We look forward to meeting with you and your staff in the coming months to discuss these important issues in greater detail.

Sincerely,

A handwritten signature in black ink that reads "Winslow Sargeant".

Winslow L. Sargeant, Ph.D.

Chief Counsel

A handwritten signature in blue ink that reads "Jamie Belcore Saloom".

Jamie Belcore Saloom

Assistant Chief Counsel for Telecommunications