

**NOMINATIONS OF MIGNON L. CLYBURN
AND MEREDITH ATTWELL BAKER TO THE
FEDERAL COMMUNICATIONS COMMISSION**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

—————
JULY 15, 2009
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Printed for the use of the Committee on Commerce, Science, and Transportation



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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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CONTENTS

	Page
Hearing held on July 15, 2009	1
Statement of Senator Rockefeller	1
Statement of Senator Hutchison	3
Statement of Senator DeMint	5
Statement of Senator Begich	5
Statement of Senator Ensign	26
Statement of Senator Lautenberg	28
Prepared statement	30
Statement of Senator Johanns	31
Statement of Senator Cantwell	32
Statement of Senator Thune	34
Statement of Senator Klobuchar	35
Statement of Senator Dorgan	39

WITNESSES

Hon. Lindsey Graham, U.S. Senator from South Carolina	4
Mignon L. Clyburn, Commissioner-Designate, Federal Communications Commission	5
Prepared statement	7
Biographical information	8
Meredith Attwell Baker, Commissioner-Designate, Federal Communications Commission	13
Prepared statement	15
Biographical information	16

APPENDIX

Response to written questions submitted to Mignon L. Clyburn by:	
Hon. John D. Rockefeller IV	43
Hon. Daniel K. Inouye	43
Hon. John F. Kerry	43
Hon. Frank R. Lautenberg	44
Hon. Tom Udall	44
Hon. Mel Martinez	47
Hon. John Ensign	48
Hon. Johnny Isakson	49
Hon. David Vitter	49
Hon. Jim DeMint	50
Hon. Olympia J. Snowe	51
Hon. Charles Grassley	53
Response to written questions submitted to Meredith Attwell Baker by:	
Hon. John D. Rockefeller IV	54
Hon. Daniel K. Inouye	55
Hon. John F. Kerry	55
Hon. Frank R. Lautenberg	55
Hon. Tom Udall	56
Hon. Olympia J. Snowe	58
Hon. Jim DeMint	60
Hon. Johnny Isakson	61
Hon. Charles Grassley	61

**NOMINATIONS OF MIGNON L. CLYBURN
AND MEREDITH ATTWELL BAKER TO THE
FEDERAL COMMUNICATIONS COMMISSION**

WEDNESDAY, JULY 15, 2009

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 2:30 p.m. in room 253, Russell Senate Office Building, Hon. John D. Rockefeller IV, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV,
U.S. SENATOR FROM WEST VIRGINIA**

The CHAIRMAN. Now this hearing does come to order.

And before I start, I want to acknowledge there are some extremely important people here, and I want to introduce them, and then I'll make a statement. And then Senator Kay Bailey Hutchison, the Ranking Member, will make a statement and then I will explain after that.

First of all, I want to welcome the father and mother of Ms. Clyburn for appearing today, the Majority Whip of the House Jim Clyburn and his wife, Emily.

Mr. CLYBURN. Thank you, Mr. Chairman.

[Applause.]

The CHAIRMAN. Representative Bennie Thompson.

[Applause.]

The CHAIRMAN. Representative Carolyn Kirkpatrick.

[Applause.]

The CHAIRMAN. Representative G.K. Butterfield. I love that name.

[Laughter and applause.]

The CHAIRMAN. And Representative Henry Brown.

[Applause.]

The CHAIRMAN. All right. I will proceed to my statement. I welcome all of you here. The room is very crowded. That means you are here on behalf of the future of one of the two most important agencies in all of government, not that well-known, but to those who live and die by it, very well-known. The FCC has enormous, wide-ranging authority, and the question is, will it exercise it, will it expand it, will it not exercise it.

From broadband wireless to television content, a topic that I care very much about, this is the agency that oversees it all. Interestingly, they oversee violence, but they don't oversee bad language or

promiscuity or things of that sort. And they are still going on the assumption, the FCC, that adult time begins at 10 o'clock, because all kids are asleep. Having several kids and grandkids, it's my general impression that's when kids begin doing their homework—at 10 o'clock. So what is on TV at that point makes a lot of difference and the FCC has everything to do with that.

Because we entrust our powers to the FCC Commissioners, we naturally come to expect a lot from them. And I will say this, that in my judgment, the FCC is a broken agency waiting for the right kind of leadership, and the commissioner and commissioner need to make it work in the way that it absolutely must as we go into the years ahead.

I think that it should rely on facts. It should accept bad news. It shouldn't be ideological. I think it has been. That's my view. It may not be shared by others. I think where it should be open and transparent, it has been opaque and beholden, quite frankly, to those interests that it regulates. That's not a happy combination in government. Worse, I believe it has lost sight of its mission, helping all consumers, consumers being the American people, benefit from the great explosion of communication technology that is changing our economy and changing our world.

There is almost nothing in the world of inter-connection or telecommunications, anything that you want, that the FCC doesn't touch and make basic decisions about. So I charge both of our nominees today to do their part to repair this agency, and I'm sure they will, with the perspectives you bring to the table. I thank the nominees who are now before me for bringing to this Commission a lot of experience. Ms. Clyburn, you have a seasoned history of being a state regulator and you can share that, you know exactly what it is all about, and you come from rural America which makes somebody from West Virginia happy.

In Ms. Baker, we have somebody who is coming from the trenches and one of the most important and misunderstood or not understood agencies in the Federal Government, the NTIA, and she knows telecommunications issues from the inside out, no questions asked. Very strong and very good. Both are devoted public servants.

So show us, I would charge you both, that the FCC can put consumers first, show us that the agency can produce data that we can trust; show us that the agency can produce data that we can see; and show us that the American people can have access to first-class communications, no matter who they are and where they live. That is a huge subject.

This committee is going to be watching very carefully. We are very much an oversight committee, any committee has that responsibility, but we have to be extra stringent on that. So I look forward to the testimony of the two who are before us.

Before that, I want to apologize, because as happens around here, but not ordinarily under circumstances as important such as this, like the FCC, but we have the Intelligence Committee reauthorization that has some fairly basic principles in it that have to be voted on, and I have to be there. I have to be there.

So my good friend from Alaska, another metropolitan state, is going to be taking over, Mark Begich. He is new. This is his first

year, and yet if you watch him and listen to him, you would think he has been here for 30 years. So I thank all of you. I apologize to all of you, and particularly, of course, to our witnesses, and now I present to you, Kay Bailey Hutchison.

**STATEMENT OF HON. KAY BAILEY HUTCHISON,
U.S. SENATOR FROM TEXAS**

Senator HUTCHISON. Thank you very much, Mr. Chairman. I am very pleased that we are finally getting closer to having a full FCC and I think this is a great step in the right direction. I want to also acknowledge the names of another mother and father in the room, and that is Kirby and Nancy Attwell, who are the mother and father of our nominee, Meredith Baker, and her husband, James Baker, Jamie, we are glad you are here.

And Meredith, if there are others you want to introduce, you can do so later, but I was very pleased that they would be able to come and give their support.

I do want to welcome Meredith, as her home state Senator, and also say that it has been wonderful to get to know her incredible experience in FCC policymaking. She will be a great asset to the debate at the FCC. She has a solid grasp of the technical issues which will surely help guide her as the Commission considers and develops the National Broadband plan. Moreover, she has much experience working with the public safety community and as the FCC looks to make a national interoperable wireless network, she will be a valuable voice in the Commission.

Our state is 80 percent rural. Being a native of Texas will no doubt provide Meredith with the unique understanding of the communications issues facing rural and urban America.

Mignon Clyburn also has vast experience and I was very happy to meet with her in my office in the run-up to this hearing. Her background is in print media. That provides an important perspective to understand the difficulties faced by newspapers and other media outlets in these very difficult economic times. She also has an impressive public service background which I hope will help guide her through the very important media issues at the FCC.

Mr. Chairman, we have two extraordinary women with deep commitments to public service before us this afternoon, and I am looking forward to hearing from both of them and working with you to confirm both of them on an expeditious basis, so that the FCC can get to the business of dealing with all the issues that we have talked about and know are so important for the communications and the technology revolution that is happening. And I am ready for them to roll up their sleeves and help solve those problems. So thank you, Mr. Chairman, and I look forward to working with you toward their confirmation.

The CHAIRMAN. Thank you very much, I would say to the distinguished Senator from Texas. I would like to introduce now Senator Lindsey Graham, who if I can guess correctly, will be making a certain introduction, and I hope that you won't take the other side of the case.

[Laughter.]

**STATEMENT OF HON. LINDSEY GRAHAM,
U.S. SENATOR FROM SOUTH CAROLINA**

Senator GRAHAM. I think we are on the same sheet of music here.

Thank you, Mr. Chairman. And I am honored to be here. You know we have the Supreme Court confirmation going on with Judge Sotomayor. There is a lot happening in the Senate today. It's a busy place, but I am so glad we have two nominees to fill out the Federal Communications Commission because of the role they play.

Congressman John Spratt is here to show support for our nominee, Mignon Clyburn and her family and Henry Brown. And I think it speaks a lot for our South Carolina delegation for Henry and John to come over. As these two nominees answer your questions and I am sure they will be penetrating questions as they should be, about how we move forward and where do we take rural America and urban America when it comes to the 21st Century, what I am here for today is vouch. South Carolina is a small state, and we all pretty much know each other, our warts and all. And I tell you, you cannot have a better person representing the people of the United States than Ms. Clyburn.

You mentioned something in your opening statement about trust. That this committee would trust that the Commission share information necessary for the Commission to have oversight and for the country to move forward in a good way. One thing I can tell you about Ms. Clyburn that all of us who know her and worked with her throughout the years trust her. She will be honest with you and put the best interests of the United States ahead of her own.

I know this is a big moment for her parents and her family. Her dad is a successful leader in the state and Nation and I know her parents very well, and I am sure they are here today as parents. We all speak well of this family. The Public Works Commission in South Carolina, Mr. Chairman, is a very big deal. It regulates powerful interests and industries and she has been on that commission, she has been a chairman of that commission, so the issues that she will be dealing with in the Federal Communications Commission will not be unknown to her. And the leadership she provided our state at the Public Service Commission will help this country.

I know my colleague, Senator DeMint, shares these views but home state Senators are expected to come and speak for someone from their state. This is not expected of me in this case. I am proud to be here. And I hope every member of this committee will understand that this fine young lady is the right person at the right time for this most important job. And she is well-qualified, and I hope she gets confirmed unanimously. Thank you very much.

The CHAIRMAN. Thank you very much, Senator Graham. John Spratt has come and I hope that he will stand, so he can be recognized.

[Applause.]

And Senator DeMint, as word has it, is from South Carolina and may well have something he wishes to say.

**STATEMENT OF HON. JIM DEMINT,
U.S. SENATOR FROM SOUTH CAROLINA**

Senator DEMINT. Thank you, Mr. Chairman. I would like to add my support to Ms. Clyburn and I'm particularly delighted to support her because this means that Jim Clyburn, John Spratt and Jim DeMint are in complete agreement on an issue. I would like to welcome my other House colleagues here and just add a little bit to what has already been said.

We know how important the FCC is. There is a lot that has to be done. The communication sector is growing at an incredible pace with innovation and new technologies that we never dreamed we would be dealing with, which makes the issues of regulation very complex.

After talking with Ms. Clyburn, I am impressed by her years of service on the Public Service Commission, her experience in small business and her civic involvement, which is particularly important to me as I look at what she did with the YWCA and the South Carolina Cancer Center and the Columbia College Board of Visitors. It shows a servant's heart and someone involved in causes much bigger than themselves. And I think she is a great representative of what is best about South Carolina and our country, and I am honored to support her today. Thank you, Mr. Chairman.

**STATEMENT OF HON. MARK BEGICH,
U.S. SENATOR FROM ALASKA**

Senator BEGICH [presiding]. Thank you very much, Senator. Let me—this is my first time to chair, so you'll have to bear with me.

Let me, if I can, have the two witnesses come forward, the two nominees. Each one will have five minutes to make her opening statement afterward we'll go through a rotation of questions from members of the Committee. Ms. Clyburn, you will be first.

**STATEMENT OF MIGNON L. CLYBURN, COMMISSIONER-
DESIGNATE, FEDERAL COMMUNICATIONS COMMISSION**

Ms. CLYBURN. Thank you, Senator. I would like to thank Chairman Rockefeller, Ranking Member Hutchison and distinguished Members of the Committee for the great privilege of appearing before you today as a nominee for the Commissioner of the Federal Communications Commission. I applaud the Chairman's call for an FCC that serves all Americans and share his passion for and commitment to meaningful reform.

The FCC should never lose sight of the public interest it was created to protect. The Chairman's leadership on this score has been extraordinary. Senator Hutchison, if confirmed, I look forward to working with you to develop a communications policy that reflects a keen awareness of the impact of the Commission's decisions on both consumers and industry stakeholders.

I would like to thank Senator Graham for introducing me today. Senator Graham has a long and distinguished record of public service, and I am humbled by his kind words in support of my nomination. I also would like to thank and acknowledge my other Senator, Mr. DeMint, another distinguished public servant with whom I look forward to working on communications issues, if confirmed.

I would also like to acknowledge, as was mentioned earlier, the support and presence of a number of Members of Congress who you have introduced this afternoon. I am deeply honored by President Obama's nomination to serve as a Member of the Commission. If confirmed, I pledge to work with each member of this Committee to ensure that the FCC is fair, open, and transparent, and that it protects consumers, encourages robust competition in the marketplace, and champions technological innovation.

My record reflects an understanding of the kinds of challenges faced by everyday Americans. I began my professional career by serving for 14 years as Publisher, General Manager and Lead Editor of the *Coastal Times*, a weekly newspaper serving greater Charleston. The paper, a business I helped build from the ground up, offered a voice to those individuals and families whose stories were rarely covered by the mainstream press, and reported on issues and events with direct relevance to their daily lives.

That experience has served as a guide in my current role as a member and former chair of the South Carolina Public Service Commission. During my 11 years at the Commission, I never lost sight of the fact that at the end of every Commission decision, our customers, consumers and businesses are left to contend with the consequences of our actions. A successful regulatory agency must weigh these implications in order to best understand where and in what circumstances regulations make good sense.

I am also a strong believer in the value of collaboration within and among levels of the government. As current Chair of the Washington Action Committee for the National Association of Regulatory Utility Commissioners, I have witnessed firsthand the benefits of and necessity for cooperation among local, state, and Federal Governmental agencies. These partnerships are essential to achieving a uniform and predictable regulatory environment in which technological innovation can thrive.

I appear before you well aware of the formidable economic challenges our Nation faces today. I firmly believe however, that we have at our disposal a communications sector that, if harnessed, should be a leader in our Nation's economic recovery and long-term sustainable economic growth. Our success will depend in large measure upon our ability to think creatively, spur innovation and work together to use communications technologies in a way that enables businesses to succeed and improve the lives of Americans.

We must also ensure that all Americans have access to and can make productive use of the communications tools essential to making the American dream a reality. Most notably, by providing universal high-speed, high quality, affordable access to broadband, we can establish the essential underpinnings for enduring national prosperity.

Before closing, I would like to thank my family and friends, many of whom are here today for their constant love and support. My father, James, who many of you know, has instilled in me the value of courage and compassion and stressed their importance in the world of public service. My mother, Emily, a retired librarian, shared with me her love of learning and the power of knowledge. My siblings, Jennifer, a public schoolteacher and Angela, a

wellness advocate, taught me the art of diplomacy and the value of respecting and appreciating all points of view.

It would be my sincere honor to utilize these qualities working with Chairman Genachowski, Commissioners Copps, McDowell and Baker, if confirmed, the outstanding FCC staff, and the distinguished Members of this Committee to confront our Nation's economic and communications challenges. If confirmed, I will not take lightly your trust.

CHAIRMAN. Senator——

[Laughter.]

Senator BEGICH. It's a bait and switch.

Ms. CLYBURN. And members of the Committee, I again thank you for the opportunity to appear before you today and I am pleased to answer your questions.

[The prepared statement and biographical information of Ms. Clyburn follows:]

PREPARED STATEMENT OF MIGNON L. CLYBURN, COMMISSIONER-DESIGNATE,
FEDERAL COMMUNICATIONS COMMISSION

Thank you, Chairman Rockefeller, Ranking Member Hutchison, and distinguished Members of the Committee for the great privilege of appearing before you today as a nominee for Commissioner of the Federal Communications Commission.

Mr. Chairman, I applaud your call for an FCC that serves all Americans and share your passion for and commitment to meaningful reform. The FCC should never lose sight of the public interest it was created to protect. Your leadership on this score has been extraordinary.

Senator Hutchison, if confirmed, I look forward to working with you to develop a communications policy that reflects a keen awareness of the impact of the Commission's decisions on both consumers and industry stakeholders.

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I am deeply honored by President Obama's nomination of me to serve as a member of the Commission. If confirmed, I pledge to work with each member of this Committee to ensure that the FCC is fair, open and transparent, and that it protects consumers, encourages robust competition in the marketplace and champions technological innovation.

My record reflects an understanding of the kinds of challenges faced by everyday Americans. I began my professional career by serving for 14 years as Publisher, General Manager and Lead Editor of *The Coastal Times*, a weekly newspaper serving Greater Charleston. The paper—a business I helped build from the ground up—offered a voice to those individuals and families whose stories were rarely covered by the mainstream press, and reported on issues and events with direct relevance to their daily lives.

That experience has served as a guide in my current role as a member—and former Chair—of the South Carolina Public Service Commission. During my 11 years at the Commission, I have never lost sight of the fact that at the other end of every Commission decision are consumers and businesses that are left to contend with the consequences of our actions. A successful regulatory agency must weigh these implications in order to best understand where and in what circumstances regulation makes good sense.

I am also a strong believer in the value of collaboration within and among levels of the government. As the current Chair of the Washington Action Committee for the National Association of Regulatory Utility Commissioners, I have witnessed first-hand the benefits of and necessity for cooperation among local, state and Federal Governmental agencies. These partnerships are essential to achieving a uniform and predictable regulatory environment in which technological innovation can thrive.

I appear before you well aware of the formidable economic challenges our Nation faces today. I firmly believe, however, that we have at our disposal a communications sector that, if harnessed, should be a leader in our Nation's economic recovery

and long-term sustainable economic growth. Our success will depend in large measure upon our ability to think creatively, spur innovation and work together to use communication technologies in a way that enables businesses to succeed and improve the lives of Americans.

We also must ensure that *all* Americans have access to and can make productive use of the communications tools essential to making the American Dream a reality. Most notably, by providing universal, high-speed, high-quality affordable access to broadband we can establish the essential underpinnings for enduring national prosperity.

Before closing, Mr. Chairman, I would like to thank my family and friends, many of whom are here today, for their constant love and support. My father, James, who many of you know, has instilled in me the values of courage and compassion, and stressed their importance in the world of public service. My mother, Emily, a retired librarian, shared with me her love of learning and the power of knowledge. My siblings Jennifer, a public school teacher, and Angela, a wellness advocate, taught me the art of diplomacy and the value of respecting and appreciating all points of view.

It would be my sincere honor to utilize those qualities working with Chairman Genachowski, Commissioners Copps, McDowell and Baker, if confirmed, the outstanding FCC staff, and the distinguished Members of this Committee to confront our Nation's communications challenges. And if confirmed, I will not take lightly your trust.

Chairman Rockefeller and Members of the Committee, again I thank you for the opportunity to appear before you today, and I am pleased to answer your questions.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):

Mignon Letitia Clyburn.
Nickname: Ming.

2. Position to which nominated: Commissioner, Federal Communications Commission.

3. Date of Nomination: June 25, 2009.

4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.
Office: South Carolina Public Service Commission, 101 Executive Center Drive, Columbia, SC 29210.

5. Date and Place of Birth: March 22, 1962; Charleston, SC.

6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage): N/A.

7. List all college and graduate degrees. Provide year and school attended.

University of South Carolina, Columbia, SC, 1980–1984.
B.S. Business Administration—Banking & Finance and Economics.
(I also graduated from the South Carolina Executive Institute in 2000).

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Public Service Commission of South Carolina, State Utilities Commissioner, 1998–present; Chair, 2002–2004.
The Coastal Times newspaper, 1984–1998, Publisher, General Manager.
The Coastal Times Today, Producer, public affairs program, UPN Charleston, 1991–1992.

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.

South Carolina Advisory Committee, U.S. Commission on Civil Rights, (1999–present), current Chair.
South Carolina Energy Advisory Council (2001–present).
South Carolina Education Oversight Committee, Common Ground School Improvement Committee, 2005–2006.

Commission on Columbia City Government Reform and Restructuring, 2005–2006.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

The Palmetto Project, Trustee, Secretary/Treasurer, 2004–present.
 Trident Technical College Foundation, Board and former Executive Committee Member, 2001–present.
 South Carolina Cancer Center Board, 2007–present.
 Columbia College Board of Visitors, 2007–present.
 YWCA of Greater Charleston, Board Member and President, 2006–2008.
 Reid House of Christian Service, Board Member, 2001–2008.
 Edventure Children’s Museum, Board Member, 1999–2005.
 National Association of Regulatory Utility Commissioners, (Member since 1998, Audit Committee Member since 1999, and Washington Action Chair since 2006).
 Southeastern Association of Regulatory Utility Commissioners (Member since 1998, Chair 2003–2004).
 Kernels and Kreme (ice cream and popcorn store), Partner, 2003–2005.
 Indigo Holding Company (real estate), President, 2001–present.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

The Palmetto Project, Trustee, Secretary/Treasurer, 2004–present.
 Reid House of Christian Service, Board Member, 2001–2008.
 Edventure Children’s Museum, Board Member, 1999–2005.
 National Association of Regulatory Utility Commissioners, 1998–present.
 Southeastern Association of Regulatory Utility Commissioners, 1998–present.
 The Links, Inc. (Charleston), 1999–present, women only.
 The NAACP (Charleston), Life Member, 2001.
 SC Coalition for Black Voter Participation, Life Member, 2002.
 YWCA of Greater Charleston, 2005–present, women only*
 Charleston County Democratic Women, 1985–2004.
 Morris Brown AME Church, 1968–present.
 United Negro College Fund, SC campaign, 1986–1999.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

I have been elected four times (first in 1998, then in 2002, 2004, 2006 by the General Assembly) to the South Carolina Public Service Commission, no debt.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

Friends of James E. Clyburn, \$1,000, 2006.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Honored by Omega Psi Phi, Delta Sigma Theta, Phi Beta Sigma, Sigma Gamma Rho Fraternities and Sororities for business and/or community contributions.

Recognized for outstanding community service by Mt. Zion, Morris Brown and St. Luke AME Churches, The Charleston Chapter of The Islamic Society, Ara-

* 2007—Roard membership restriction lifted.

bian Temple and Court, National Council of Negro Women, United Negro College Fund, The NAACP, The Association for the Study of African American Life and History (Charleston), and The Moja Arts Festival.

Received awards from the Utilities Market Access Partnership (NARUC program), Columbia Urban League (2006 Lincoln C. Jenkins Award), and Terry School of Business (2006 James C. Bonbright Award) for professional distinction.

Graduated from the South Carolina Executive Institute.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

While I have not authored any books, columns or publications, I have made a number of presentations relevant to the position for which I have been nominated:

National Foundation of Women Legislators, "Transformative Power of Broadband: Key Issues During Challenging Times," November 23, 2008, Sarasota, FL.

Provided regulator's perspective on how to increase the awareness for the need of broadband services and how this technology can serve as part of the solution to the problems that affect women's lives.

KMB Video Conference, May 7–8, 2007, St. Pete Beach, FL.

Moderated a panel on Universal broadband, and was a panelist on the "regulatory shill" session that focused on the influence of state legislatures Service Fund.

CTIA Wireless, I.T. & Entertainment, 2006, Los Angeles, CA.

Served on a panel with other state regulators focusing on the benefits and perils of competition for consumers.

Emerging Issues Policy Forum, "Innovation and Convergence in the Communication Industry," May 7–10, 2006, Amelia Island, FL.

State and Federal regulators and industry leaders from across the Nation discussed the future of regulatory policies and investment practices in the telecommunications industry.

CTIA Wireless, I.T. & Entertainment, 2005, San Francisco, CA.

Commissioners from across the country gave their perspectives on wireless broadband deployment and uptake, how their states attract investment to this sector, taxes, inter-carrier compensation, and the Universal Service Fund.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

I have never testified before Congress. I did, however, make two presentations before Members of the Congressional Black Caucus in 2001 and 2003 on behalf of the Utility Market Access Partnership. This partnership is a National Association of Utility Commissioner sanctioned program that seeks to level the playing field for those wishing to do business with investor-owned utilities.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

For 11 years, I have had the opportunity to represent the Sixth Congressional District as a member of the Public Service Commission of South Carolina—a state agency which regulates investor-owned utilities that provide essential services for citizens living and working in the "Palmetto State." On a daily basis, this position grants me an "on the ground floor view" of how decisions made on the Federal level impact persons and enterprises at the state and local levels. This experience has made me keenly aware that decisions and policies enacted in Washington not only have to be fair, balanced and for the greater good, but also practical, deliverable and pragmatic.

As a State Utilities Commissioner, I interact daily with lawmakers, "ratepayers", investors, and Commissioners in other states and I look forward to bringing this perspective to the FCC if confirmed as a Commissioner.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

To the extent possible, I look forward to working with the Chairman to ensure proper management and accounting controls. As chair of the South Carolina Public Service Commission from 2002–2004, I managed a staff of about 80 people. I saw it as my duty and primary responsibility to foster an environment where there was transparency, open lines of communication, proper training and clearly stated objectives and expectations. If confirmed, I look forward to being a member of a team which encourages, motivates and leads by example.

20. What do you believe to be the top three challenges facing the department/agency, and why?

The National Broadband Plan

The Federal Communications Commission must produce to Congress a national broadband plan by February 2010. Not only must the plan set the stage for the manner in which we will achieve the goals of high-speed affordable broadband for all Americans, but also the process itself by which the plan is developed is essential. In order to produce a comprehensive plan that represents the views of all stakeholders, the Commission must conduct the process in an open, transparent and inclusive manner.

Universal Service Fund Reform

The Universal Service Fund has been an incredible tool for bringing voice service to nearly every American—from the highest populated to the most rural areas of the country. With its successes, however, have come a number of challenges, and many agree that the time has come for a serious evaluation of the Fund's operation. I believe that as we look to reform the USF, the FCC must have an open and transparent process that encourages input from all corners of the Nation. Moreover, the FCC must be thoughtful about the manner in which it goes about any such reform, so that we preserve the great benefits the Fund has yielded while making the necessary improvements.

Engaging Consumers

Following the delay of the transition to digital television, the FCC did its best to transform itself into a consumer-focused agency. From what I understand, the results were impressive and the Commission staff emerged with a renewed sense of purpose. I believe that this experience should serve as a platform for other initiatives that enable the Commission to engage directly with consumers, understand their shared concerns and develop ways in which it can address those issues effectively.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I am enrolled in the standard 401K program and at present, only have the state retirement and standard deferred compensation/simple interest bearing accounts.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the FCC's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the FCC's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

As a State Commissioner, I have been a resource to lawmakers in South Carolina on consumer issues and the economic impact of key regulatory decision-making.

For just over 3 years, I have been the Chair of the Washington Action Program for NARUC (The National Association of Regulatory Utility Commissioners). The association as a whole has been active in many jurisdictional/key legislative matters including the Lieberman-Warner Climate Change, Railroad Competition and Service Improvement Act of 2007, Caller ID Spoofing, VOIP E911 Service, Internet Tax Freedom Act, Wireless Preemption, Cost Recovery Mechanism in RPS, and LIHEAP funding legislation. NARUC also supported S. 1492—particularly the provision to establish state grants for state level broadband data collection—and H.R. 537—private activity bonds to replace aging and deteriorating water infrastructure.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the FCC's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

In *Nuxoc Communications v. Public Service Commission* (2005), I was sued in my official capacity along with the other Commissioners on the Public Service Commission. The plaintiff challenged two final orders in which we had ruled against it. In 2009, the district court for the District of South Carolina ruled in our favor.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

RESUME OF MIGNON L. CLYBURN

Education

1980–1984, University of South Carolina, Columbia, SC.

B.S. Business Administration; Banking & Finance and Economics.

1976–1980, W. J. Keenan High School, Columbia, SC.

General Diploma.

Awards Received

Community Service/Business Awards from: Southeastern Energy Conference—Terry School of Business, The Columbia Urban League, Omega Psi Phi and Phi Beta Sigma Fraternities, Delta Sigma Theta and Sigma Gamma Rho Sororities, Mt. Zion AME Church, Charleston Chapters of the Islamic Society, Arabian Temple and Court, NCNW, UNCF, Moja Arts Festival, Morris Brown AME Church and the NAACP.

Work experience

2002–2004, Chair, South Carolina Public Service Commission.

1998–present, Commissioner, Sixth District, Columbia, SC.

Assist in regulating investor or *privately*-owned electric, gas, water and sewerage companies, as well as all telephone and telegraph companies inside of South Carolina. In addition, oversee certain practices with regard to for-hire motor carriers, along with railroad, railway and radio common carriers.

1984–1998, Publisher, General Manager, *The Coastal Times*, Charleston, SC.

Worked as editor, delivery person, General Manager and Publisher for an African American-oriented weekly newspaper.

Community Activities

Serves on Boards of: Trident Technical College Foundation, The Palmetto Project (Secretary/Treasurer), Columbia College Board of Visitors, SC Cancer Center Board and is a member of Links, Inc.; Served on the Boards of: YWCA of Greater Charleston (President) Edventure Children's Museum, Reid House of Christian Service, The Trident Urban League and Trident United Way as well as Charleston County Democratic Women (President); City of Charleston Site and Design, Charleston Area Arts Council; Women in Transition, and United Way Allocations Board; Is a member of the City of Columbia Reform and Restructuring Commission, Common Ground School Improvement Committee (SC Education Oversight Committee) and SC Great Friends to Kids (Edventure).

Professional Memberships

Southeastern (past Chair) and National Association of Regulatory Utility Commissioners (Utility Market Access Partnership, Audit Committee, Foundation Board Member, Legislative Task Force and Co-Chair of Washington Action Committee); SC Energy Advisory Council; served as President of the Black Women Entrepreneurs, past Treasurer of the SC Coastal Association of Black Journalists; and a graduate of the South Carolina Executive Institute.

Senator BEGICH. Thank you very much, Ms. Clyburn.
If we could have Ms. Baker?

STATEMENT OF MEREDITH ATTWELL BAKER, COMMISSIONER-DESIGNATE, FEDERAL COMMUNICATIONS COMMISSION

Ms. BAKER. Thank you very much. Good afternoon, Senator Begich, Ranking Member Hutchison, and distinguished Members of the Committee. I am going to shorten my remarks a bit and ask that my full statement be entered into the record.

Senator BEGICH. It will be submitted.

Ms. BAKER. Thank you very much for the opportunity to appear before you today. It is a tremendous honor to be nominated to serve as Commissioner of the FCC and I am deeply grateful for this opportunity. I look forward to answering your questions and earning your support for my nomination.

I would like to start by introducing my husband, Jamie Baker. Every day I am thankful for the foundation of love and support that he provides. I am also pleased to be able to introduce my parents, Kirby and Nancy Attwell from Houston, Texas. As a successful businessman, my father has shown me the importance of hard

work, determination, and common sense. My mother, who worked as a fundraiser for public television and as a homemaker, has shown me how to live a life full of creativity, kindness and zest.

I have two of my four stepdaughters here, Hallie and Mary Stuart. Jackie is at sleep-away camp and Rosemary's working, which is a good thing.

[Laughter.]

Ms. BAKER. And my brother, Kirby, is also here from Houston. I am also pleased to sit next to Mignon Clyburn. It is a real privilege to get to know such a talented and dedicated public official. And I would also like to thank the current FCC Commissioners: Chairman Julius Genachowski, Commissioner Michael Copps, and Commissioner Robert McDowell, who is here in the audience for which I am also grateful. If confirmed, I look forward to working together on these important issues.

Now, Chairman Genachowski, who is off to a great start, gave an inspirational speech to the FCC staff on his first day. He stated that the promise of technology has never been brighter, and consequently the obligations of the Commission have never been greater. I share that view. The FCC holds the keys to unleashing the power of broadband, the new media landscape and public safety interoperability. That responsibility is challenging, but the rewards will truly make a difference in the life and future of every American.

According to one metric, the communications industry is 1/6 of our economy upon which the rest of it runs. A 21st Century communications infrastructure is essential for restoring sustained economic growth, opportunity and prosperity. Congress has directed the FCC to develop and implement a national broadband plan. This directive holds great promise for our Nation. Not only does the future of our children's education depend upon it, but so does the next generation of health care, smart energy grid development, and public safety interoperability.

The FCC will play an important role in making sure that the right regulatory environment exists to incent companies to build out infrastructure faster, to reward innovation and investment, and to encourage competition so that American consumers have access to and can afford the world's most advanced telecommunications services.

I believe that we can reap great benefits from a more efficient, transparent and flexible spectrum policy. The Spectrum Inventory bill that this Committee marked up last week shows important leadership and is a first step to increasing wireless broadband use in innovative ways such as secondary markets, leasing, and test beds.

Improving the management of Federal programs such as universal service must round out this national broadband plan.

I was fortunate enough to work very closely with many of you and your staffs in my former role at NTIA on the recent transition to digital television. The 700 MHz spectrum band that is transitioning out has been freed for the next generation of American wireless services and public safety interoperability. I worked very hard to make this unique coupon program a success in difficult circumstances. Although the transition was aided by addi-

tional time and resources for coupon distribution and call centers, I am proud of NTIA's hard work throughout the program. I also appreciate the work that Congress did to ensure the success of this transition.

In the past few weeks, I had the pleasure of meeting many of you—many members of this Committee. And I want to thank you for taking the time out of your busy schedules to meet with me and share your thoughts on communications policy and the future of the FCC.

Whether it's the Fairness Doctrine, indecency and violence in broadcast programming, low power FM, WWOR, broadband delivered by satellites in Alaska or the national broadband plan, I have learned a great deal about your respective views and the range of issues that affect your states and constituents. If confirmed, I look forward to continuing our dialogue and to working together for the benefit of American consumers.

The FCC has a profound impact on what American people see, hear, and read. Healthy competition can benefit consumers, and in many cases can reduce the need for regulation. However, the regulatory mandate of the FCC will remain an important one as our society continues to experience technological advancement in the communications sector. If confirmed, I would take this responsibility very seriously while working to promote the principles of investment, innovation, and competition for the benefit of all Americans. Thank you again for the opportunity to appear before you, and I look forward to taking your questions.

[The prepared statement and biographical information of Ms. Baker follows:]

PREPARED STATEMENT OF MEREDITH ATTWELL BAKER, COMMISSIONER-DESIGNATE,
FEDERAL COMMUNICATIONS COMMISSION

Good afternoon. Chairman Rockefeller, Ranking Member Hutchison and distinguished Members of the Committee, thank you for the opportunity to appear before you today. It is a tremendous honor to have been nominated by President Obama to serve as a Commissioner of the Federal Communications Commission (FCC), and I am deeply grateful for this opportunity. I look forward to answering your questions and to earning your support for my nomination.

I would like to start by introducing my husband, Jamie Baker. Everyday I am thankful for the foundation of love and support he provides. I am also pleased to be able to introduce my parents, Kirby and Nancy Attwell, who are here from Houston. As a successful businessman, my father has shown me the importance of hard work, determination and common sense. My mother, who worked as a fundraiser for public television and as a homemaker, has shown me how to live a life full of creativity, kindness and zest. I have two of my four stepdaughters here—Hallie and Mary Stuart. Jackie is at sleep away camp and Rosemary is in New York. And my brother, Kirby, is here from Houston.

I am also pleased to be sitting next to Mignon Clyburn. It has been a privilege to get to know such a talented and dedicated public official. If confirmed, I look forward to serving with Commissioner Clyburn and the current FCC Commissioners—Chairman Julius Genachowski, Commissioner Michael Copps, and Commissioner Robert McDowell.

Chairman Genachowski, who is off to a great start at the FCC, gave an inspirational introductory speech to the FCC staff on the day of his arrival. He stated that the promise of technology has never been brighter and consequently, the obligations of the Commission have never been greater. I share that view. The FCC holds the keys to unleashing the power of broadband, the new media landscape and true public safety interoperability. That responsibility is challenging but the rewards will truly make a difference in the life and future of every American.

According to one metric, the communications industry constitutes one-sixth of our economy, and serves as a foundation for the rest. A 21st Century communications

infrastructure is essential for restoring sustained economic growth, opportunity and prosperity. Congress has directed the FCC to develop and implement a National Broadband Plan. This directive holds great promise for our Nation. Not only do many aspects of our children's education and opportunities for life-long learning depend on this directive, but so to does the next generation of health care delivery, smart energy grid development, and public safety interoperability. The FCC will play an important role in making sure that the right regulatory environment exists to incent companies to build out infrastructure faster, to reward innovation and investment, and to encourage competition so that American consumers have access to, and can afford, the world's most advanced telecommunications services.

I believe we can reap great benefits from a spectrum policy that unlocks the value of the public airwaves in more efficient, transparent and flexible ways. The Spectrum Inventory bill that this Committee marked up last week, shows important leadership and is a first step to increasing wireless broadband use in innovative ways such as secondary markets, leasing, and testbeds.

Improving the effective and efficient management of Federal programs such as universal service must round this National Broadband Plan. In this time of profound economic challenge, we need to ensure that the communications sector continues to thrive and contributes meaningfully to an economic recovery, both in the near and long term.

I was fortunate to work closely with many of you and your staffs in my former role at the National Telecommunications and Information Administration (NTIA) on the recent transition to digital television. The 700 MHz spectrum band that this transition has freed makes way for the next generation of American wireless services and public safety interoperability. I worked very hard to make the unique coupon program administered by NTIA a success in difficult circumstances. Although the transition was aided by additional time and resources for coupon distribution and call centers, I am proud of NTIA's hard work throughout the program. I also appreciate the work that Congress did to ensure the success of the transition.

In the past weeks, I have had the pleasure of meeting with many of the members of this Committee. And I thank you for taking time out of your busy schedules to meet with me and share your thoughts on communications policy and the future of the FCC. Whether it is discussion of the Fairness Doctrine, indecency and violence in broadcast programming, low power FM, WWOR, satellites in Alaska or broadband in the Navajo Nation, I have learned a great deal about your respective views on the range of issues that affect your states and constituents. If confirmed, I look forward to continuing our dialogue, to consulting closely with this Committee and with your other colleagues in Congress, and to working effectively together for the benefit of American consumers.

The FCC has a profound impact on what the American people see, hear and read. Healthy competition can benefit consumers and, in many cases, can reduce the need for regulation. However, the regulatory mandate of the FCC will remain an important one as our society continues to experience technological advancement in the communications sector. If confirmed, I would take this responsibility very seriously while working to promote the principles of investment, innovation and competition for the benefit of all Americans. Thank you again for the opportunity to appear before you, and I look forward to answering your questions.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Meredith Attwell Baker; maiden name: Meredith McAshan Attwell.
2. Position to which nominated: Commissioner, Federal Communications Commission.
3. Date of Nomination: June 25, 2009.
4. Address (List current place of residence and office addresses):
Residence: Information not released to the public.
Office: 1486 Evans Farm Drive, McLean, VA 22101.
5. Date and Place of Birth: May 31, 1968; Houston, Texas.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

James Addison Baker IV (spouse)—Partner in Charge of the Washington, D.C. office, Baker Botts L.L.P.

Children: Rosemary Elise Baker, 25; Hallie Anderson Baker, 23; Mary Stuart Clark Baker, 19; Virginia Graeme Baker, deceased; Jaqueline Addison Baker, 14.

7. List all college and graduate degrees. Provide year and school attended.

Washington and Lee University, B.A., 1986–1990.
University of Houston Law School, J.D., 1992–1994.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

U.S. Department of State, Personal Assistant to the Assistant Secretary for Legislative Affairs (1990–1991).

U.S. Department of State, Legislative Management Officer (non-managerial, relevant) (1991–1992).

DeLange & Hudspeth, L.L.P. , Associate (1994–1997).

Cellular Telecommunications and Internet Association, Director of Congressional Affairs (non-managerial, relevant) (1998–2000).

Covad Communications, Senior Counsel (managerial, relevant) (2000–2002).

Williams Mullen Strategies, Vice President (non-managerial, relevant) (2002–2003).

U.S. Department of Commerce, Senior Policy Advisory to the Assistant Secretary for Communications and Information (non-managerial, relevant) (2004–2006).

The White House, Acting Assistant Director, Office of Science and Technology Policy (non-managerial, relevant) (2006).

U.S. Department of Commerce, Acting Associate Administrator, Office of International Affairs (managerial, relevant) (2007).

U.S. Department of Commerce, Deputy Assistant Secretary for Communications and Information (managerial, relevant) (2007).

U.S. Department of Commerce, Acting Assistant Secretary for Communications and Information (managerial, relevant) (2007–2009).

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: None.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Board Member, United States Telecommunications Training Institute (2007–2009) (Board seat is part of responsibilities of the Assistant Secretary of NTIA).

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Texas Bar Association (1995–present), No restriction.

Junior League of Houston/Washington, D.C. (1993–2001) Transfer Chairman, Female Only.

Woodmore Country Club (2000–2005), No restriction.

Decade Society (1999–2003), No restriction.

Federal Communications Bar Association (2004–present), No restriction.

Gibson Island Club (2007–present), No restriction.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

I was appointed by the President as a Schedule C to the positions of: U.S. Department of State, Personal Assistant to the Assistant Secretary of Legislative Affairs (1990) and Legislative Management Officer (1991); and U.S. Department of Com-

merce, Senior Policy Advisor to the Assistant Secretary for Communications and Information (2004) and Deputy Assistant Secretary of Commerce for Communications and Information.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

6/29/01—Rep. Chris Cannon (\$760).

9/18/03—Rep. John Carter (\$500).

4/12/04—George W. Bush (\$1,000).

9/18/08—John McCain (\$2,300).

I volunteered in October 2000 in Louisiana for the Republican National Committee.

I volunteered in November 2000 in Florida for the Republican National Committee.

I volunteered in October 2002 in Florida for the Republican Party of Florida.

I volunteered in October 2004 in Ohio for the Republican National Committee.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Consumer Electronics Association Academy of Digital Television Pioneers (2007).

National Association of Broadcasters Appreciation Award (2007).

Outstanding Leadership—World Radio Conference 2007.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

September 17, 2004—South Dakota Public Utilities Commission Conference Speech: *“Everything You Always Wanted to Know about Wireless Technology,”* Spearfish, SD.

February 2, 2005—International Rights of Way Association: *Improving Federal Rights of Way Management to Spur Broadband Development*, Washington, D.C.

June 7, 2005—Southeastern Association of Regulatory Utility Commissioners Annual Conference: *Promoting Broadband Deployment in Rural America*, Covington, KY.

January 2006—International Rights of Way Association Keynote, Washington, D.C.

October 17, 2007—3G Americas Conference Keynote: *International Growth of Wireless Technologies and Markets*, Washington, D.C.

January 15, 2008—Lehman Bros. Conference, Remarks on the TV Converter Box Coupon Program, Washington, D.C.

January 21, 2008—Television Operators Caucus, Remarks on NTIA’s DTV Transition Planning and Procedures, Washington, D.C.

January 24, 2008—Federal Communications Bar Association, 9th Annual Communication Law Seminar, Keynote Speech: *Welcome to Communications Law*, Washington, D.C.

January 29, 2008—Interview by *About.com* on TV Converter Box Coupon Program, Washington, D.C.

January 30, 2008—Associated Press interview on *Networked Nation: Broadband in America* report, Washington, D.C.

January 31, 2008—Press Tele-Briefing on release of *Networked Nation: Broadband in America* report, Washington, D.C.

February 13, 2008—Testimony on the DTV Transition and the TV Converter Box Coupon Program before the House Subcommittee on Telecommunications and the Internet, Washington, D.C.

February 15, 2008—Progress and Freedom Foundation Congressional Seminar, Countdown to DTV: Making the 2009 Deadline Work, Opening Remarks, Washington, D.C.

- February 18, 2008—Interview on C-SPAN “The Communicators” series, Washington, D.C.
- February 19, 2008—Interview with Fox 5 Morning News on TV Converter Box Coupon Program, Washington, D.C.
- February 19, 2008—*Washington Post* online chat on the DTV Transition and TV Converter Box Coupon Program, Washington, D.C.
- February 19, 2008—Federal Communications Bar Association Seminar Panel, *DTV Transition: Only One Year to Go*, Washington, D.C.
- February 20, 2008—Coalition Against Domain Name Abuse Speech: *Perspectives on Internet Governance Policy*, Washington, D.C.
- March 3, 2008—Interview with ABC News on DTV Transition and TV Converter Box Coupon Program, Washington, D.C.
- March 5, 2008—Interview with Broadcasting and Cable magazine on DTV Transition and TV Converter Box Coupon Program, Washington, D.C.
- March 19, 2008—Internet Video Policy Symposium, Luncheon Keynote, Washington, D.C.
- April 1, 2008—CTIA Wireless 2008, Plenary—U.S. Wireless and the World Economy Panel, Las Vegas, NV.
- April 3, 2008—Consumer Electronics Association Washington Forum Keynote, Washington, D.C.
- April 8, 2008—Testimony on the DTV Transition and the TV Converter Box Coupon Program before the Senate Committee on Commerce, Science, and Transportation, Washington, D.C.
- April 14, 2008—Press Conference at National Association of Broadcasters Show on DTV Transition and TV Converter Box Coupon Program, Las Vegas, NV.
- April 17, 2008—Massachusetts Technology Leadership Council Spring Conference: *China, India & Russia, Our Partners in the New Global Economy*, “A Strong Communications Infrastructure is Key to Economic Success,” Boston, MA.
- April 24, 2008—APEC TEL Ministerial Meeting, Speech: “Challenges and Strategies to Promote Universal Service,” Bangkok Thailand.
- May 9, 2008—NCTA’s 57th Annual Convention and International Exposition, Public Policy Luncheon Panel, New Orleans, LA.
- May 14, 2008—Remarks, NTIA 30th Anniversary Celebration, Washington, D.C.
- June 2008—Article in *Connect World-North America* magazine: *On the Front Lines: Shaping Wireless Policy*.
- June 18, 2008—Testimony on the DTV Transition and the TV Converter Box Coupon Program before the House Subcommittee on Government Management, Organization, and Procurement, Brooklyn, NY.
- July 15, 2008—Presentation on TV Converter Box Coupon Program, Self Help for the Elderly, San Francisco, CA.
- July 22, 2008—National Association of Regulatory Utility Commissioners (NARUC), Summer Meetings, Luncheon Speech: *Embracing the Future in Telecommunications*, Portland, OR.
- August 17, 2008—Progress and Freedom Foundation Aspen Summit, Speech: *Unlocking Innovation: Has the Key Been Misplaced?* Aspen, CO.
- September 2008—Matte Release, *Apply. Buy. Try. Consumers Urged to Prepare for the Switch to Digital TV before the end of the year*; Released in multiple newspapers including *The Triangle Tribune*, December 7, 2008.
- September 8, 2008—Remarks at Event Marking DTV Transition in Wilmington, North Carolina, Designated Market Area, Wilmington, NC.
- September 16, 2008—Testimony on the DTV Transition and the TV Converter Box Coupon Program before the House Subcommittee on Telecommunications and the Internet, Washington, D.C.
- September 18, 2008—LSI Spectrum Management Conference, *Spectrum Issues for the Next Administration and What to Expect in Response* Panel, Arlington, VA.
- September 22, 2008—Maximum Television Service 22nd Annual Fall Television Conference, Keynote Speech, Washington, D.C.

September 23, 2008—Testimony on the DTV Transition and the TV Converter Box Coupon Program before the Senate Committee on Commerce, Science, and Transportation, Washington, D.C.

September 30, 2008—The Hill Op-Ed, *Making the Switch from Analog TV*.

October 7, 2008—French-EU Presidency Conference, Plenary Session Keynote Speech: *Internet of Things—Internet of the Future: Challenges of International Cooperation*, Nice, France.

October 15, 2008—Texas Wireless Summit, Policy and Regulation Panel, Austin, TX.

October 15, 2008—Media Event on DTV Transition and TV Converter Box Coupon Program at Radio Shack Headquarters, Austin, TX.

October 21, 2008—Luncheon Speaker, Digital Dialogue Forum, Washington, D.C.

October 29, 2008—Luncheon Remarks, Wilkinson, Barker, Knauer, LLP, Washington, D.C.

November 6, 2008—33rd Meeting of the Internet Corporation for Assigned Names and Numbers (ICANN) Speech: *Ten Years Out . . . Celebrating Accomplishments and Preparing for New Challenges*, Cairo, Egypt.

November 10, 2008—Satellite Media Tour on DTV Transition and TV Converter Box Coupon Program, Washington, D.C.

November 14, 2008—National Grange Annual Convention, Speech on DTV Transition and TV Converter Box Coupon Program, Cromwell, CT.

November 20, 2008—Speech to The Media Institute's Communication Forum: *Embracing Change in the New Media Landscape*, Washington, D.C.

December 3, 2008—Internet Governance Forum, Opening Ceremony, Speech: The Importance of the Internet Governance Forum, Hyderabad, India.

January 2009—*Twice.com/CES Show 2009, Positive Response Seen to Converter Box Coupon Program*.

February 26, 2009—Catholic University of America Columbus School of Law Communications Symposium *Interference, Wireless Innovation, Public Interest, Regulatory Response*, Keynote Speech, Washington, D.C.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

February 13, 2008—Testimony on the DTV Transition and the TV Converter Box Coupon Program before the House Subcommittee on Telecommunications and the Internet, Washington, D.C.

April 8, 2008—Testimony on the DTV Transition and the TV Converter Box Coupon Program before the Senate Committee on Commerce, Science, and Transportation, Washington, D.C.

June 18, 2008—Testimony on the DTV Transition and the TV Converter Box Coupon Program before the House Subcommittee on Government Management, Organization, and Procurement, Brooklyn, NY.

September 16, 2008—Testimony on the DTV Transition and the TV Converter Box Coupon Program before the House Subcommittee on Telecommunications and the Internet, Washington, D.C.

September 23, 2008—Testimony on the DTV Transition and the TV Converter Box Coupon Program before the Senate Committee on Commerce, Science, and Transportation, Washington, D.C.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I have over 10 years experience working in the field of telecommunications and technology policy, and I would bring both public and private sector experience to the position. I worked at the Cellular Telecommunications and Internet Association, representing over 350 member companies of wireless and equipment manufacturers. I worked at Covad Communications, the Nation's largest competitive DSL company. Most recently, I spent 5 years working at the National Telecommunications and Information Administration, Advisor to the President on matters of information and communications technology policy.

I have legal, policy, and technical experience and expertise in the broad portfolio of the FCC—spectrum, wireless, wireline, media, homeland security and Internet issues. I have worked extensively on regulatory and legislative issues such as telecom reform, broadband, Internet governance, network management, public safety interoperability, cybersecurity, digital television transition, making spectrum use more efficient, global standards, and the new media landscape.

I think these sectors will fuel the economic growth and the next generation of global prosperity, so it is imperative that the environment for this critical infrastructure flourishes. I believe that the coming years will bring continued convergence and integration of communications technologies that will enhance our lives, our economy and our Nation. I think that my experience and understanding of the multi-stakeholder challenges that will arise make me qualified to serve as an FCC Commissioner.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

I believe in regular meetings and a positive, all-inclusive management style. I believe if staff feels part of a team, performance and productivity improve. Accounting controls are part of proper management and examples are set from the top down. My management experience includes: Acting Associate Administrator of the International Office at the NTIA, Deputy Assistant Secretary of NTIA and Acting Assistant Secretary at NTIA.

For most of my tenure at NTIA, the full time employee headcount has been around 250 (100 under salary and 150 under reimbursable spectrum work), with an all accounts budget of \$55 million. Under the programs assigned to NTIA under the Deficit Reduction Act of 2005, mainly the DTV coupon program and the Public Safety Interoperable Communications Grants, the total FY 2009 budget increased to almost \$650 million (and about 280 FTEs). Additionally, NTIA offices are located in Main Commerce, an extension on New York Avenue, an offsite location and in Boulder, Colorado. I have experience managing a large organization with offices in multiple locations.

20. What do you believe to be the top three challenges facing the department/agency, and why?

I think the Commission has many challenges, which are also opportunities, in the coming months and years. I have a strong interest in making spectrum management more efficient, transparent and flexible. However, I think the most pressing issues are:

National Strategy for Broadband—Broadband clearly holds the promise for our children's improved education, our next generation of healthcare, smart energy and true public safety interoperability. It is important to incentivize companies to build out faster speeds, to make sure it reaches all Americans and is affordable. Congress has given the FCC a challenge, but a real opportunity by requiring a National plan. The timeline is short, the challenges to ensure that technology neutrality and innovation are fostered are important, but the mission is critical.

Universal Service Reform—Universal Service reform is long overdue. As wireline is moving toward wireless and it is all moving to the Internet, broadband should be considered part of a reformed USF. However, there must be restraint on the growth to allow for its inclusion. Additionally, in these troubled economic times, we must make sure that companies, including the rural companies, agree to the solution and that revenue streams are not taken away without a glide path.

Public Safety Interoperability—A critical goal related to the return of the broadcast spectrum is to establish a nationwide, interoperable broadband wireless network for use by first responders. The FCC sought to achieve this goal with a public/private partnership which would have required the winning bidder of the commercial 700 MHz D Block license to partner with the nationwide licensee of the public safety spectrum to allow construction of a network that would have been used by both public safety and the commercial users. However, the D Block auction did not get a winning bid. The current economic climate makes the question of how to move forward on this critical issue more difficult. The FCC needs to look at all of the options carefully to ensure that it finds the best way forward for first responders to serve our country.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

Federal Government Employee's Thrift Savings Plan.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: None.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

My husband, Jamie Baker, is the Partner in Charge of the Washington, D.C. office of the law firm Baker Botts, L.L.P. While they do not have a telecommunications regulatory practice, or a governmental affairs practice, there could be a situation where a conflict of interest might arise. If such a case were to arise, I would certainly consult with the General Counsel and immediately recuse myself as appropriate.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated: None.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

From 1998–2000, I served as Director of Congressional Affairs for the Cellular Telecommunications and Internet Association. We sought to pass the anti-cellphone cloning legislation, to make 9–1–1 a national number, and for number portability.

From 2000–2002, I worked as the Senior Counsel to Covad Communications, the Nation's largest competitive digital subscriber line. We worked to ensure that access to legacy phone company facilities would be available to competition.

From 2002–2003, I worked as Vice President for Williams Mullen Strategies. My main client continued to be working with Covad Communications. I also worked for a partner's client, NewsCorp.

From 2004–2009, I worked at the U.S. Department of Commerce at the National Telecommunications and Information Administration. As the policy advisor to the President on telecommunications and technology issues, I worked on many issues of law and public policy on the Hill, as well as, at the Federal Communications Commission, the Department of Justice, the Federal Trade Commission, and the Department of Homeland Security. I advocated for the enactment of economic incentives and a regulatory environment that would encourage innovation and investment in new broadband technologies, such as: an extension of the Internet tax moratorium, an economic security package that would allow companies to speed depreciation schedules for capital-intensive broadband equipment, a permanent extension of the research and experimentation tax credit, and an expanded budget for research and development. I advocated treating like services similarly. I worked with Congress to pass the Commercial Spectrum Enhancement Act. I worked with Congress in the implementation of and changes to the various grant programs given to NTIA in the Deficit Reduction Act of 2005 including the Public Safety Interoperable Communications Grant Program and the Digital Television Converter Box Program.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

I would defer to General Counsel's decision as to any conflict of interest and would recuse myself as appropriate.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain.

In May 1987, I was arrested for a Driving Under the Influence in Lexington, Virginia. I received a six-month suspension of my drivers license.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

Civil Small Claims Court—Alexandria, Virginia (2007).

My husband and I sued our decorator for specific performance or return of retainer when she left the country without completing the job. Settled. Eastern District of Louisiana—New Orleans (1994).

I suffered a personal injury resulting from a drunk driver running over a crowd watching a parade. Insurance settlement.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain.

In May 1987, I was arrested for a Driving Under the Influence in Lexington, Virginia. I received a six-month suspension of my drivers license.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

RESUME OF MEREDITH ATTWELL BAKER

Professional Experience

United States Department of Commerce, Washington, D.C.—*Acting Assistant Secretary of Commerce for Communications and Information/Acting Administrator, National Telecommunications and Information Administration, 2007–2009.*

Serve as the President's principle advisor on domestic and international information and communications technology issues. Ensure efficient and effective management of Federal radio spectrum, and oversee state-of-the-art telecommunications research, engineering and planning.

Spokesperson for the Administration on telecommunications and technology. Interviewed by many major news outlet in the country. Testified five times to Congressional committees. Daily outreach to press and Congressional leaders.

Provide leadership and management of \$3.5 billion of Deficit Reduction Act of 2005 Programs including the Digital Television Converter Box Coupon Program and the Public Safety Interoperable Communications Grants.

Responsible for the underlying contracts of the Internet Domain Name and Addressing System.

Lead the Commerce Spectrum Advisory Committee of private sector experts to develop recommendations to the Federal Government on efficient spectrum management. Lead Policy Coordinating Committee meetings when high level agency decisions on spectrum issues were needed. Participated in JCCT and NSTAC meetings.

Represent the United States on delegations to international conferences regarding telecommunications and technology issues involving governance, global competitiveness, cybersecurity, development and standards, including: ITU, ICANN, IEEF, OECD, APECTEL, WSIS, as well as other fora such as bilaterals.

Deputy Assistant Secretary of Commerce for Communications and Information/Deputy Administrator, National Telecommunications and Information Administration, 2007.

Responsible for day-to-day management of the agency. Manage all capital, personnel and resources including spectrum management for all Federal agencies and activities for digital transition coupon program and interoperability programs. (FY 2009 budget, all resources: 280 FTEs, \$648 million).

Provide comprehensive legal, and policy advice to the Secretary of Commerce and the Executive Office of the President on all matters of information and communications technology policy. Work in direct collaboration with the White House including the Office of the Vice President, Office of Management and Budget, Office of Science and Technology Policy, the National Security Council, and the National Economic Council to develop Administration positions on complex telecommunications and technology policies.

Coordinate and communicate Administration positions to the leadership of the Federal Communications Commission (FCC). Present Administration positions to Members of Congress and their staff.

Acting Associate Administrator, Office of International Policy, 2007.

Formulate and promote national policies in multilateral, bilateral and international organization settings. Advocate globally for foreign regulatory and policy regimes that encourage competition and innovation.

Oversee the IANA Contract and the Joint Partnership with MANN.

Manage, prioritize, and allocate resources of office of nine people.

The White House, Washington, D.C.—Acting Assistant Director, Office of Science and Technology Policy, 2006.

Formulate, coordinate and execute Executive Office of the President (EOP) policies with respect to broadband, the Internet, telecommunications, spectrum, interoperability, and other technology-related issues.

Lead inter-agency high tech task force whose members include the Departments of State, Commerce, Justice and Education, the Federal Trade Commission, and the Federal Communications Commission.

Research, analyze and brief EOP officials on regulatory and legislative issues such as telecom reform, digital television transition, President's Spectrum Initiative, ICANN, spyware, indecency, and CALEA.

United States Department of Commerce, Washington, D.C.—Senior Policy Advisor to the Assistant Secretary for Communications and Information, 2004–2006.

Responsible for formulating and advocating the Administration's position on domestic and international communications and information technology issues, including: broadband; eliminating economic and regulatory burdens on technologies; ensuring multi-stakeholder and private sector leadership in the Internet governance; and overseeing efficient management of the Federal agencies' uses of spectrum.

Liaison with the Federal Communications Commission on proceedings of interest to the Administration.

Williams Mullen Strategies, Washington, D.C.—Vice President, 2002–2003.

Advise and counsel a variety of telecommunications and broadcast clients in their various legislative, regulatory and communication needs.

Work closely with third party groups and think tanks to articulate public policy and form coalitions based on various issue challenges.

Covad Communications, Washington, D.C.—Senior Counsel, 2000–2002.

Design and build company's Washington presence including structure, management, liaisons, branding, public relations, political action committee and non-profit outreach. Serve as corporate spokesperson.

Responsible for formulating, articulating and executing Covad's public policy positions at the Federal and state levels. Represent company before the Administration, Capitol Hill and several trade associations. Manage multiple consultants and Government Affairs budget.

Cellular Telecommunications and Internet Association, Washington, D.C.—Director of Congressional Affairs, 1998–2000.

Design, implement and manage legislative agenda for over 350 member companies at both the legislative and Executive branches of the Federal Government.

Monitor and analyze legislative and regulatory developments in the telecommunications and technology industry.

Planning and direction of political activities and fundraising events.

DeLange & Hudspeth, L.L.P. , Houston, TX—*Associate, 1994–1997.*

General commercial practice including both transactional and litigation.

Business counseling including acquisitions, choice of entity, contracts, bankruptcy and employment law.

U.S. Department of State, Washington, D.C.—*Legislative Management Officer, 1990–1992.*

Advocated the Administration's position for the Oceans, Environment, Science and Technology Bureau.

Personal Assistant to the Assistant Secretary for Legislative Affairs

Aided Assistant Secretary Janet Mullins in the operations of the Bureau of Legislative Affairs.

Worked on special projects involving the Middle East and the former Soviet Union.

Internships and Clerkships

Summer 1994, Fifth Circuit Court of Appeals, Chamber of Harold DeMoss, Houston, TX.

Summer 1993, Lean y Muez, Mexico City, Mexico.

Education

University of Houston Law School, Houston, Texas (J.D., 1994).

Washington and Lee University, Lexington, Virginia (B.A., 1990).

St. John's School, Houston, Texas (High school diploma, 1986).

Senator BEGICH. Thank you very much, Ms. Baker. Thank you for mentioning satellites and Alaska, not that I'm biased or anything.

[Laughter.]

Senator BEGICH. We are also joined by Congresswoman Barbara Lee. If she can stand and be recognized. Thank you for attending.

[Applause.]

Senator BEGICH. I have had the privilege to chair once before and I always break the rules. Usually the chair would begin asking questions first, but I will yield to Ranking Member Hutchison, and then I will go through the list and I'll go last. Ensign, DeMint, Lautenberg, Johanns, Isakson. Senator Hutchison?

Senator HUTCHISON. Thank you very much, Mr. Acting Chairman.

I want to ask each of you about the Fairness Doctrine. My question is, do you think the Fairness Doctrine should be reinstated and are you committed to making sure the Commission will not attempt to revive the doctrine or any policy like it that effectively mandates broadcast speech? Ms. Clyburn?

Ms. CLYBURN. Age before beauty, I guess, right?

Senator HUTCHISON. You went first.

Senator BEGICH. Reverse alphabetical.

Ms. CLYBURN. Ranking Member, I believe that the Fairness Doctrine should not be reinstated in any way, shape or form. The FCC, I believe, is not in the business of censoring speech or content on the basis of political views.

Ms. BAKER. I am also very concerned about any move to reinstate the Fairness Doctrine either directly or indirectly, given the diver-

sity of information sources that are available to consumers. And I, too, have been very pleased with the statements of Chairman Genachowski who also has said he believes strongly in the First Amendment and does not believe the FCC should be involved in censorship of content of political speech or opinion.

Senator HUTCHISON. Thank you. I would like to ask both of you, and I will start with Ms. Baker because you had some experience in this area, and that is, what would be your priority, both of you, for a national broadband plan and the first steps that the FCC should take to establish such a plan?

Ms. BAKER. I think this is a great challenge but also a great opportunity for the FCC. I think it's important to set the economic climate so that we have incentives to build out broadband faster. I think it's important to have a regulatory climate that rewards investment and innovation and encourages competition. And I also think that it's really important to have a spectrum policy that unleashes the power of the public airwaves. And I think that effective and efficient management of Federal programs such as USF will probably round out that national plan.

Senator HUTCHISON. Specifically, and I will ask you as well. Would your priority for the stimulus dollars and the early government money be for new areas where there is no broadband coverage or expanding where there is some, but perhaps not everything?

Ms. BAKER. I think it's very important to map broadband and to fill out areas that are unserved first.

Ms. CLYBURN. Ranking Member, as it relates to the national broadband plan, I believe the process, in and of itself, should be an open and inclusive one. One that should involve all stakeholders, many of whom are in this room. I believe that number one in that plan should be an assurance or to ensure that all people in the U.S. have access to broadband capacity. This process, as I said, should be fair and inclusive and participatory.

And also the FCC has a great start as to the broadband plan that is due before this Committee on the 17th of February. They note, acknowledge and instituted the opportunity for 20 workshops that are going to be open to the public, and I am looking forward to what that would deliver and bring—the promises it will bring for the American people.

And as it relates to—you mentioned priorities. I am from South Carolina and as you mentioned, we have a lot of commonalities as it relates to rural—we are a rural state. I believe I sit next to a colleague who tells me every day, that we don't have broadband, we don't have broadband. So the priorities, I am in sync with you in terms of the parties bringing special attention to the areas unserved, but never losing sight of those underserved areas.

Senator HUTCHISON. I will let others have a chance to ask questions and come back. Thank you, Mr. Acting Chairman.

Senator BEGICH. Thank you very much. Next is Senator Ensign.

**STATEMENT OF HON. JOHN ENSIGN,
U.S. SENATOR FROM NEVADA**

Senator ENSIGN. If you could both discuss your views on Internet neutrality. I want to start with an easy question first.

Ms. CLYBURN. Thank you very much. I appreciate that. First, I want to inform the Senator that I believe in preserving the openness of the Internet. This has been a vehicle for innovation and economic growth and opportunity for all Americans, especially small business. I think the Internet has thrived to the extent that it has because of the open nature of it, and I would do everything in my power to preserve that.

Ms. BAKER. I actually think there is a consensus growing around this concept of net neutrality, meaning there needs to be sufficient network management to have a reliable Internet that works. And I think that we all want an open Internet, an open platform that is able to have innovation on the edges and in the middle. We also know there is a distinction between lawful content and unlawful content, and they do not get the same protection.

So there needs to be reasonable network management for network owners to have network management that can help protect against unlawful content such as child pornography, and spam and denial of service attacks and illegal content copyrights. There needs to be reasonable network management while maintaining the platform for innovation.

Senator ENSIGN. Jump to second easy issue—media ownership rules were written at a time when we had very few TV stations and few newspapers in each locality and not many radio stations. Today we have everything from the Internet and podcasts to numerous stations. Cable television didn't exist back then the way that it exists today, and especially with the penetration that we have and since the digital television transition, the number of TV stations that they have is certainly greatly increased.

You turn on your radio today and there is station after station after station. Even in a lot of rural areas there are many stations. Growing up as a boy in Lake Tahoe, we only had one radio station that had been coming in, well, most of the time. It's a much different story today.

Having said that, can you express your opinions on media ownership and if the current rules apply to the technology that exists today. Does it still make sense to have the kind of media ownership rules that we have today?

Ms. BAKER. I will start on this one. It's a concern. I think this is a topic that ignites great passion and great concern in people. There are three principles the FCC looks at in media ownership: in localism, diversity—diversity of ownership and also diversity of viewpoints—and competition.

I think those are the principles that you look at. And I think we would look at, if confirmed, in the quadrennial review which will be coming up. I personally think that from a policy standpoint from where I sit, the changes in the marketplace are apparent. And there is traditional media which is struggling. So we need to be careful not to put new burdens on an already struggling industry environment.

I know this has been looked at by this Committee, and I think if confirmed, I would like to continue to work with this Committee to find answers to this issue.

Ms. CLYBURN. Senator, I agree that the media landscape is changing. We see entities like the *Christian Science Monitor* and

the *Rocky Mountain News* moving into more of a hybrid delivery of our news. So definitely the landscape is changing.

The FCC, I believe, if confirmed, I would like to be a part of assessing the impact of these changes as it relates to any ownership discussions. The agency will, I know, keep its eye on this very important issue, but I also want to affirm that I believe that a cacophony of voices on our airwaves, over our airwaves is a benefit to all Americans. And I speak from firsthand experience of being a former owner of a media outlet, that there are benefits to having a variety of voices. And I look forward to engaging in more conversations as it relates to the media universe.

Senator ENSIGN. Thank you, Mr. Chairman. My time has expired but let me offer my congratulations to both of you on your nominations. I know you are both going to be excellent. I enjoyed meeting with both of you. And on those two issues I mentioned, I know they are contentious. That's the reason I brought them up. I knew you wouldn't commit to anything today, but I think it is important to raise those issues for discussion.

On the subject of media ownership, to me it doesn't make a heck of a lot of sense to have the rules we have today considering the technologies that are in the marketplace today. The cacophony of media voices are much louder today because of technology. There is no way to shut it down and no way to monopolize it. I hope that you will both keep this in mind.

This Committee also needs to take a fresh look at this issue along with network neutrality, because we want to have an environment where commerce can flourish in ways that it never has before. So I congratulate all of you. Congressman Clyburn, way to go. You and your wife must have done something very well to raise her. Thank you very much.

Ms. CLYBURN. Senator, if you will allow me to, I will commit to this—to working with you as it relates to the variety of issues that we have before us today.

Senator BEGICH. Thank you very much, Senator. And before I go on, I want to remind members if you have additional questions that we are not able to do today, if you have questions for the record, please make sure they are done by 6 p.m. Friday. Senator Lautenberg.

**STATEMENT OF HON. FRANK R. LAUTENBERG,
U.S. SENATOR FROM NEW JERSEY**

Senator LAUTENBERG. Thanks, Mr. Chairman. And greetings to each of you. You bring the kind of quality that we know will be helpful in achieving the mission of the FCC. That is to make sure that broadband gets distributed properly, that we take care of the D-block opportunities for safety, network, and also to take a look—a serious look—at the question that I have, about whether or not the Internet which is no longer a luxury, it's a necessity, and people need it to communicate to government and to the people at large.

So when I sit here with you, coming from the state of New Jersey, it would be the fourth largest media market in the country, and doesn't have any real commitment to New Jersey and its broadcast of not only news but, not only public service announce-

ments and volunteering in the community. Doesn't the commitment, and I will ask you to be briefer in your answer than I am in my question, doesn't the commitment to license—and by the way, the license on WWOR in New Jersey has a condition, and the condition is that it serves the New Jersey marketplace interests.

And we are the largest, most densely populated state in this country with 9 million people, so doesn't a broadcaster have to go beyond public service announcements and volunteering service to earn its right to continue to broadcast news and information about what's going on in the state? Ms. Clyburn?

Ms. CLYBURN. Thank you so much, Senator. It's good to see you again. I know we had an opportunity to speak about this just briefly in your office, and I know how passionate and committed you are to that particular issue, and I share in your passion. I know that the situation that you mention is before the Commission, and I know it has been before it for sometime, and I know there is a special history, and a special passion.

Senator LAUTENBERG. Thank you for that.

Ms. Baker, how do you feel?

Ms. BAKER. I agree with Ms. Clyburn that this is an interesting issue in license renewal and if you are looking at localism and competition, this is certainly a local issue. I agree with you and if confirmed, pledge to look into it.

Senator LAUTENBERG. In 2007 the FCC held a hearing in Newark, New Jersey on the license renewal of WWOR. New Jersey residents testified about the station's failure to cover New Jersey news. Now, a year or 2 years later, the station still has not adequately improved its service. They are now operating on an extension of a license that has not been renewed after the first term. And I take it that if you are confirmed, I can get a commitment from you that you look thoroughly at this case very quickly in your ascension to your seats?

Ms. CLYBURN. Yes, sir.

Ms. BAKER. Yes, Senator.

Senator LAUTENBERG. Thank you for those lengthy answers.

New Jersey is a net contributor of more than \$180 million a year to the Universal Service Fund. I think everyone knows what the Universal Service Fund is. It has to take funds from one area, one state, and contribute to a fund to make sure that people who can't afford regular service have at least limited services, telephone availability. Have you thought about what you might have to do to reform the USF, and bring some fairness to donor states? Have you had a chance? If you don't, the question will persist, I promise you.

[Laughter.]

Ms. BAKER. I think there is general consensus that universal service does need reform. How that outcome—how that outcome is reformed I think is still up in the air. I think what is important is we get a predictability of the subsidy so we can have certainty in the marketplace so we have assurance to customers and consumers that we have high quality services available at affordable prices. And if confirmed, I would be happy to work with you on how that actually plays out.

Ms. CLYBURN. And Senator, if confirmed, I commit to you that I will work with you and others to make sure that the fund is both

efficient and effective and getting as much bang for your buck as can you get.

Senator LAUTENBERG. Thank you very much. Mr. Chairman, I ask unanimous consent that my opening statement would be included in the record, and I commend the Committee for having found two such qualified nominees for positions on the FCC. And I would like to reiterate the statement that you each made about looking forward to working with me. I look forward to working with you. Thank you.

Senator BEGICH. Senator, your statement will be in the record. [The prepared statement of Senator Lautenberg follows:]

PREPARED STATEMENT OF HON. FRANK R. LAUTENBERG,
U.S. SENATOR FROM NEW JERSEY

Every day, computers and televisions become more important tools in our homes and in our lives. We know the Internet is no longer a luxury. It is a necessity. People need it to communicate, connect to government, take online classes and get information in emergencies. That's why we included more than \$7 billion in the Recovery Act to bring broadband to every community in the country.

TVs have also become increasingly interactive. Congress and the FCC have aided that transition by moving the Nation from analog to digital television. This move promises better programming, picture and sound quality for our residents and businesses, and it has freed up space for wireless broadband and public safety needs.

If Mignon Clyburn and Meredith Baker are confirmed, we expect them to continue these national transformations.

Our work on the digital transition is not yet done, for example. We need a plan for a public safety broadband network using some airwaves that were freed up by the switch to digital. That is a national imperative, but we also need these nominees to look out for the interests of our individual states.

Ms. Clyburn has spent a decade serving on the South Carolina Public Service Commission, which regulates South Carolina's telecommunications providers. Before that, she published a weekly newspaper in Charleston, South Carolina. So Ms. Clyburn understands the importance of local media providing news coverage of local issues.

This is a major issue for the nearly nine million residents of New Jersey, who are stuck between the media markets of New York and Philadelphia—and have no media market of their own. New Jersey's only commercial high-power station, WWOR, has failed to meet its obligations to our state.

In fact, at a hearing the FCC held in New Jersey, our residents talked about how WWOR spends more time covering the schools, civic affairs and communities of New York than our state. If confirmed, I look forward to the assistance of these nominees to make sure WWOR does what its license says it should be doing: covering New Jersey.

Meredith Baker has extensive experience at the NTIA, where she served as Acting Director. Ms. Baker was responsible for overseeing the digital TV converter box coupon program and coordinating the education efforts surrounding that program.

As the FCC develops its national broadband plan, I hope Ms. Baker will use that experience to educate all Americans—particularly those in underserved, low-income areas—about the benefits of broadband.

Increasing broadband availability and adoption is essential if we are going to help people continue to learn, get new or better jobs and keep America competitive.

Finally, I hope these nominees can help fix the bloated Universal Service Fund. Each year, New Jersey pays almost \$200 million more into the fund than it gets back.

New Jersey cannot afford to bear this unfair and ever-increasing burden. I look forward to hearing from and working with today's nominees on these critical issues."

Senator BEGICH. Senator Johanns.

**STATEMENT OF HON. MIKE JOHANNNS,
U.S. SENATOR FROM NEBRASKA**

Senator JOHANNNS. Let me add my voice to those who have complimented you and applauded you. You are both enormously qualified and I look forward to not only supporting your nomination, each of you, but I also look forward to working with both of you. I think you are both going to be a great team and a great asset to the FCC.

The other thing I might add, I think it is so respectful to a Committee member to reach out to them and offer your time prior to the hearing. I think it is so respectful and I applaud you for doing that. Sometimes our schedules are busy, and we run in and out for a short meeting. But it speaks volumes that both of you did that. And I want you to know as a very junior member of this Committee how much I appreciate that.

I've got three questions here to kind of gauge your sense of regulation, because after all, the FCC is a regulatory body. Thinking about the wireless industry—and I will start with you, Ms. Baker. Thinking about the wireless industry, where you sit today, what preconceived notion would you take to your job as a Commissioner? Do they need more regulation or less regulation?

Ms. BAKER. I think as we have 270 million cell phone users in America now and growing as we speak, that it's a healthy debate. People are moving from wireline to wireless. I think the reason that this wireless number continues to increase is the great competition that we see in this market. I guess that is why the panel of experts in the Department of Justice is looking into this. And I think we now actually have two bodies that are looking into the wireless market. I think the data will tell us how competitive the market is, but certainly it has been a success story of competition in America.

Senator JOHANNNS. Ms. Clyburn, what is your sense, more or less?

Ms. CLYBURN. Balanced, smart regulation. We need to be mindful that number one, is the protection of customers, but also keep in mind we must do everything in our power to help spur competition, but I think at the end of the day more players in the market will help with choices and prices and ultimately in consumer services.

Senator JOHANNNS. I will stay with you, Ms. Clyburn. Going to the next area in thinking about the Internet, more regulation or less regulation?

Ms. CLYBURN. I believe that we should, again, have smart and balanced regulation. The same holds true. Where there are a number of players in a certain market, then we wisely should stand back, and watch market forces. Where, if there are issues, by chance, there are issues with market abuses, then that's when—that's when my job becomes a bit clearer. So again, it's a delicate balance, but a smart regulatory approach is how I phrase it.

Senator JOHANNNS. Ms. Baker?

Ms. BAKER. I think we have an incredibly innovative Internet at this point that exists without regulation and I would be very hesitant to regulate. I think where there have been violations, there has been quick enforcement and that seems to provide the current environment in which the Internet is thriving.

Senator JOHANNIS. And the last one—broadcasters. More regulation of broadcasters or less regulation?

Ms. CLYBURN. Of broadcasters? More regulation or less regulation of broadcasters? It would all depend. Again, what are the market forces where the market is working, where it is vibrant where there is consumer satisfaction, less than more.

Senator JOHANNIS. Ms. Baker?

Ms. BAKER. We have a new media landscape that is evident to all of us every day whether it's through the Internet or our smart phones. The broadcasting industry is struggling, but it is still the main place, the universal mechanism, for people to receive their news and information. I would hesitate for any one company or group of companies to control all sources of information in a certain area of the country. However, again, if you look at the diversity of the media marketplace at this point, it seems unlikely.

Senator JOHANNIS. My time has expired, but I will offer this insight. I watched you both struggle with fundamental questions. This is kind of basic. If you want to regulate them more or you want to regulate them less. You can ask that about everything within your jurisdiction.

The thought I offer is this—somebody pays for that. And you know it's not the big corporation, it really is the consumer. And if you don't strike that right balance, you hammer the little guy. And that's what I want you to think about. It's an enormously important issue. More regulation or less regulation. And I hope you come down on the side of the consumer. Thank you.

Senator BEGICH. Thank you very much, Senator. Senator Cantwell.

**STATEMENT OF HON. MARIA CANTWELL,
U.S. SENATOR FROM WASHINGTON**

Senator CANTWELL. Thank you, Mr. Chairman and I'd like to follow that last point about protecting consumers and I think that's a key issue particularly as it relates to net neutrality and to make sure that someone doesn't take the Internet and hijack it and make it into a paid-for super-lane and make everybody pay for access which should be free. I asked Chairman Genachowski if consumers had a choice of multiple independent sources of broadband would that eliminate the need for further action on net neutrality and to paraphrase his response, he said short of unlimited broadband competition, he thought that there was a need for some rules on net neutrality. I know that you probably have heard this question already, Ms. Baker, we talked about it in our office. But, Ms. Baker, if you can talk about the need for a fifth principle on non-discrimination.

Ms. BAKER. I think—I really do think the current innovation that we have in the Internet right now is working. And I think that the enforcement of problems has been quick and swift, and I think that is the best way for the future that I see right now. Until we gather more data about a larger problem, I would be worried about the unintended consequences of more regulation on the Internet.

Ms. CANTWELL. More regulation to make sure there is non-discrimination?

Ms. BAKER. I, at this point, have not seen where there is a problem on blocked lawful content. I think unlawful content can be blocked where lawful content exists. I think that we have not had too many problems and that the enforcement of that has been swift.

Senator CANTWELL. Ms. Clyburn, what do you think about net neutrality? What else needs to happen? Where do you come down on that?

Ms. CLYBURN. I believe if I am interpreting your question correctly, we need to do all we can to make sure that the market is fully competitive. There are areas in the country where there might be zero, one, or two providers. In that I look forward to working with you, if you consider that concentration competitive, but if we will have zero or one or two providers that I think we have to question whether the market truly is competitive in that framework.

So if we have a truly robust, competitive market, then as I mention, we might need to speak about as it relates to net neutrality, there might not be a real need for it, but if the market is not competitive, then I think that the need for and concentration on net neutrality is warranted.

Senator CANTWELL. I think what we are looking for is to make sure that consumers are protected by not having an undue cost put on top of them for access that otherwise would be free or to divide the Internet in some way that would allow people who pay for high broadband access—we are talking not about specific services here. We are talking about all of a sudden taking our freeways and turning them into something else and what that expense would be to consumers.

So we are looking to you to make sure that there are protections in place, and obviously our colleagues here will decide what legislative actions we want to take to make sure we are protecting consumers from undue additional costs to access to the Internet.

I know you had a question about media ownership by one of my colleagues, too. I wanted to get that question in, if I could.

Ms. Baker, do you see the increased common ownership of television stations and daily newspapers in the same market as a negative impact on the quality and quantity of news in their communities or how do you look at that, the cross-ownership part?

Ms. BAKER. I think that broadcasting and newspapers are still a very stable traditional medium for people in an area to receive their information. So I think if they are owned by one source, then that does become troublesome. I also do think that we have a new media landscape where there is a wide variety of news sources, more than ever before, for people to receive their information.

Senator CANTWELL. Does that mean you are for cross-ownership?

Ms. BAKER. I actually haven't had to vote on this—I realize the principles for the FCC to look at are localism, diversity and competition, and I would have to look at those principles and apply them as a situation arose at the FCC.

Senator CANTWELL. Ms. Clyburn?

Ms. CLYBURN. Senator, I am very wary of media consolidation and vowed I would take a very close look at this. As we said the landscape is changing, no one questions that. But we must assess the impact of these challenges and changes, that must be a part

of this ownership discussion. The Commission I know is committed. And if confirmed, I will be committed to keeping our eye on this, because I think that having a variety of voices is most important, and in particular, I look forward to working with members of the Committee and other parties of record.

Senator CANTWELL. Thank you, Mr. Chairman.

Senator BEGICH. Senator Thune?

**STATEMENT OF HON. JOHN THUNE,
U.S. SENATOR FROM SOUTH DAKOTA**

Senator THUNE. Thank you, Mr. Chairman. And I want to welcome Ms. Baker and Ms. Clyburn to the Committee, and hopefully once we get you confirmed we will have, after having confirmed Commissioner McDowell and Chairman Genachowski, a full complement of people at the FCC to take on the important challenges that are ahead at the FCC.

I would like to follow up on a question that was asked by Senator Cantwell that had to do with the issue of net neutrality. The question is, do you believe that Internet service providers should have the ability to violate this sort of nondiscrimination principle that was referenced during the confirmation in order to stop illegal content, child pornography and unauthorized copyrighted material from traveling across the network?

Ms. BAKER. I think there is a distinction between lawful content and unlawful content, and unlawful content has no protection. I think network operators need to have the flexibility to block unlawful content, whether it's child pornography, or spam, or denial of service attacks, or illegal copyrighting.

Ms. CLYBURN. When I speak of preserving the openness of the Internet, I am speaking of lawful content. I believe that operators or providers, if challenged with unlawful content, the content which you mentioned should have reasonable tools, be allowed to exercise reasonable network management in order to control what goes over the airwaves.

Senator THUNE. OK. Let me ask you a question about something that—and I think I have mentioned this to both of you in meetings, but both rural and non-rural carriers serve high-cost rural areas of the country, yet the USF distribution mechanisms are considerably different. The question would be, what changes do you believe the FCC should make, if any, to the current system that would more fairly allocate high-cost Universal Service Fund support, and what challenges do you see in attempting to apply a forward-looking cost approach in determining USF distribution to small rural carriers?

Ms. CLYBURN. I believe that the Fund needs to be run efficiently and effectively. I know there are issues in terms of the—in terms of the percentages—the cost of the Fund, and that we need to look at that, and make sure that—again, I would say simply in getting as much bang for our buck as we can. So the efficient and effective Fund I think will better serve us and that would help alleviate pressures as it relates to that contribution factor.

Ms. BAKER. You know, Senator, I don't have the answer to high cost universal service support at this point, but I look forward to working with you on that answer. I do think as far as universal service goes and as far as we reform it, wireline has moved to wire-

less and it's all moving to the Internet, so broadband needs to be part of the reform of universal service. And as we reform universal service, we need to be forward looking as well.

Senator THUNE. So including more of a broadband orientation in the USF issue.

I would just say in terms of adequate cost recovery, it is the life blood of a lot of small providers and particularly those in rural areas of the country and they rely on inter-carrier compensation and as well as universal service, to ensure they meet those carrier-of-last-resort responsibilities.

So I would encourage you as you look at these issues to keep the rural carriers in mind with any intercarrier or USF reform. It is essential that rural areas play an equal role in the communication revolution that we are experiencing elsewhere across the country.

I have one other question I would like to ask, too, and that has to do with the future of the wireless industry, finding additional spectrum is essential to the industry. And my question has to do with what Congress or the FCC can do to free up additional spectrum for wireless use?

Ms. BAKER. My turn. I think the spectrum inventory bill that the Committee marked up last week is a great start. I think it's a great baseline to see where spectrum is being used and where it's not. And where you can go from there is secondary markets and spectrum leasing and test beds. I think all of that is a really positive development especially for rural America and minority ownership as well.

Ms. CLYBURN. I also believe that spectrum inventory is a good idea. It's a precious resource that is limited. If we got more access that DTV has provided us—the transition has provided us with an incredible opportunity but it is still a finite and important resource.

So I believe we need to understand what is out there and how it is being used and I look forward to working with all of you to ensure that the goals we have in terms of emergency personnel and all of the other uses that we see fit—that we use that optimally for a finite resource.

Senator THUNE. My time has expired, Mr. Chairman. Thank you very much for your willingness to serve.

Senator BEGICH. Senator Klobuchar?

**STATEMENT OF HON. AMY KLOBUCHAR,
U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Thank you. We have another little hearing going on in the Judiciary Committee. You are lucky, there are a lot less cameras in here. I did want to stop by because I am looking forward to working with both of you. I want to congratulate you on your nomination, Ms. Clyburn, especially. I will never forget meeting your family in South Carolina. Your dad's fish fry is something I will never forget. There were a lot of people there. I think we had to hold hands to get through the crowd, if I recall.

Anyway, I wanted to talk with both of you about the FCC. Earlier, we had a very good nomination hearing with Julius Genachowski and I enjoyed hearing from him about his views on modernizing the agency from the website on to make it more accessible, as well as bringing back the agency's reputation as being an

agency of expertise so that Congress and other groups can rely on the agency, as we grapple with very technically difficult policy issues and I don't know if you want to comment on that, Ms. Clyburn.

Ms. CLYBURN. I agree that we should make sure that at the heart of every decision that we make, we keep in mind that the consumer is at the beginning and the end of that. This agency should not be satisfied with the GAO report that says it has some challenges and issues as it relates to consumer services and the provisioning of adequate questions and answers in response to their complaints.

So first and foremost, as it relates to the agency, if confirmed, I look forward to communicating with the public and working with an agency that does not have another finding of that nature, and that we have a reputation of not being substandard as it relates to consumer services.

Ms. BAKER. I really appreciate this Committee's interest in this issue and commitment to make sure that the morale of the FCC and efficient effective use of staff is utilized. I am grateful for that. I also think that the modernizing of the website is so great and that is going to take a priority. It is a consumer agency, consumers need to come first and it needs to be consumer friendly.

There are an awful lot of things. The Child Safe Viewing Act that Congress has passed. I think the website could be a useful tool for parents to find answers to what technology exists. So, I think there is an awful lot of things that can be done on that path.

Senator KLOBUCHAR. Very good. I will talk to you another time about this Cell Phone Bill of Rights that I introduced last year with Senator Rockefeller. We're very focused on that issue, but I thought I would mention something new I am working on with Senator Warner. That is our "dig once" bill and we are refining that bill and working with groups on it, but the idea is if we are doing infrastructure projects in this country and we are going to be tearing up Federal highways, we should at least use that opportunity to put in broadband conduit. To dig once. That is especially appealing in my state, right now, when we have one season, it's called road construction season. Unlike South Carolina we can't utilize a lot of the winter for that time, so we have huge road construction all at once. People are interested in trying to minimize disruption and save money. I wondered if both of you, if you want to start on this one, Ms. Baker, could comment on that concept.

Ms. BAKER. I appreciate your leadership on this issue and I am glad that you are focusing on it. I think it makes an awful lot of sense.

Ms. CLYBURN. And I too, think any opportunity for proper synergies, economic synergies that we could work toward economic efficiently is a wonderful potential and I am looking forward to working with you on that, sounds like a novel idea.

Senator KLOBUCHAR. I am the co-chair of the E911 caucus along with Senator Burr and we have been focusing on emergency issues in Minnesota. The 35W bridge collapse being an example of that, where actually the communications worked incredibly well with the eight-lane highway going down with 100 cars in the water and only 13 people died. And part of that was the emergency communica-

tions worked so well. They worked well because our county was able to get interoperability between agencies within a metropolitan area and we were one of the leaders on that.

But I am very concerned about what I see especially in our rural areas with interoperability with public safety equipment. Before we had this in the metro area, a police officer was killed in St. Paul, and at that time we had some of the people chasing down the killer with six or seven walkie talkies, and radios because they couldn't communicate. Can you talk about your goals for interoperability for public safety?

Ms. CLYBURN. I think it is unacceptable, years after 9/11 that we have not progressed further on this. I am from a beautiful but vulnerable state in terms of natural disaster, so this has a special meaning to me. I think the FCC could be a conduit of sorts to work with other agencies who are in the position to move things forward in this area, and if confirmed, I look forward to being an active participant in these discussions to move forward.

Ms. BAKER. The first bill I ever passed in Washington, D.C.—I was working at CTIA—was making 911 a national number, so it has a certain place in my own heart as well. I think interoperability is a huge challenge but one of the most important ones that is in front of the FCC. Currently the most important proceeding regarding that is what to do with the D block out of the digital television transition. I think it's a national issue, something that communications and technology can solve. I think the FCC has an important role in this discussion of interoperability.

Senator KLOBUCHAR. Thank you. I also wanted you to know, I started my legal career doing telecommunications law and I remember being one of the only women in the room as they discussed all these technical issues so it's kind of fun to have two women before us to be on the FCC. Congratulations.

Senator BEGICH. Thank you, Senator.

Thank you for, again, for your willingness to serve and be here today. I like today going last, because all the bigger questions, I can be very parochial on some very specific questions with regards to my state. But first I would like to comment about the website of the FCC—it should be a model, seeing that it's the regulatory body of telecommunications and it should be robust, consumer friendly and interactive. And I thank you for those comments and the Chairman was very motivated in underlining his interest to make sure that it is a very useful tool. My first two are probably very easy for you. The first one should be an easy answer.

Alaska is so diverse, so unique when it comes to telecommunications and how we utilize it. Are you both willing over your term at least to come to Alaska? I want to get this for the record so you understand why I am getting it for the record.

Senator KLOBUCHAR. I want you to know he calls it extreme rural, not just rural, extreme rural.

Ms. CLYBURN. I'm looking forward to it, Senator.

Ms. BAKER. Senator, you would be happy to know that I have been to Alaska on a number of occasions and I have actually seen how important universal service is for tele-education and telehealth. I would absolutely also love to go back. I was hoping to go in August but I am also hoping now that I may be working.

[Laughter.]

Senator BEGICH. We will get you to do both at some point, maybe, up in Alaska. And also thank you for your comments in recognizing Alaska's uniqueness in telecommunications. I am sorry Senator Lautenberg isn't here, because I have the reverse view as you know with the USF. We appreciate New Jersey being a very large donor state to the Universal Service Fund.

So as you move forward, and Alaska is currently recognized and you may or not know is 100 percent tribal which exempts it from some caps and some other issues and as you move forward on the USF reform, that will you keep in mind the very unique role that Alaska has with telecommunications and the vital link it has in regard to how that universal fund is utilized. Maybe I can start with you, Ms. Clyburn?

Ms. CLYBURN. If you mention the rural characteristics of your state, I too, come from a rural state, and I see firsthand the benefits that the Fund has delivered to our state. It is important to me. Its viability is important to me. We need to make sure that the Fund is efficient and effective and it is changing and evolving to present-day standards. So everything should be on the table as it relates to communications and how we—our expectations of the communications marketplace.

Ms. BAKER. I think Alaska is an example of—well, number one, how great America is and how diverse it is.

Senator BEGICH. That's the right answer, so far. Good.

[Laughter.]

Ms. BAKER. But it's why our national policies can't be one-size-fits-all. It's why we need technology neutrality, the answers in Alaska are not going to be the same as they are in New Jersey.

Senator BEGICH. Thank you very much for your comments regarding broadband and how important that is in the placement in Alaska. You know we have probably 75 to 76 percent Internet access at this point, 76 percent of the population which, is very significant, when you think of a rural area. But we use it in a very unique way, not only for communications, but as you mentioned, Ms. Baker, telemedicine is a powerful tool for us in a very rural area—but also for education, utilizing E-Rate and other tools to ensure that we have access, especially for rural schools where we can go from one hub and access 20 villages at the exact same time with some of the new Federal regulations, No Child Left Behind, is the one tool and only tool we can have. We would like your thoughts and how you feel about E-Rate.

Ms. BAKER. E-Rate has clearly helped connect communities that the market would otherwise not have, and I am committed to maintain it.

Senator BEGICH. One more, will you at the reauthorization of this, I would like to ask these things with the No Child Left Behind Act being considered for reauthorization, will you as a member of the FCC engage in that to some extent to see how education via the Internet is utilized?

Ms. BAKER. I have seen particularly in Alaska that regarding having a certified teacher requirement to teach children, is essential to have tele-education, because you don't have a certified teacher in every village, so, yes, sir.

Senator BEGICH. So we will see comments possible from the FCC in that item report?

Ms. BAKER. Yes, sir.

Ms. CLYBURN. I had an opportunity to view in the news—not to plug a particular outlet but especially as it relates to not having been to Alaska yet and you invited me and I will be there.

But I saw on television the power of E-Rate, the power of what is happening in classrooms that would not happen because of some of these geographic challenges that you mention. I have seen the power of E-Rate in my own neighborhoods with young children working in our neighborhood libraries on computers that I know they do not have at home. So I am absolutely supportive and I am a beneficiary of the E-Rate program and will do all in my power to see that it is enforced.

Senator BEGICH. One last question and I will see if any member has some additional questions, and that is tribal lands and Alaskan native lands are treated with exceptions within the rules, and I guess it's more of an education than a question.

When you see an Alaskan native corporation because we do it different up there, in how it is organized, it is similar to tribal lands and a lot of people are not clear when we talk about Alaska native corporations which are a replacement for the reservations that are in the lower 48, there are similar roles of rights of lands and so forth. So will you recognize the reform activity in the FCC regarding the uniqueness of tribal lands and in our case in Alaskan native corporation lands?

Ms. BAKER. If confirmed, I will certainly come to you for your expertise in tribal lands and the issues thereof.

Ms. CLYBURN. I look forward to engaging in conversations about, as it relates to that, and as Ms. Baker mentioned, we cannot afford to have a one-size-fits-all approach to those unique instances and those challenges you mentioned. I look forward to engaging more and doing all we can to ensure the goals that we have.

Senator HUTCHISON, additional questions?

Senator HUTCHISON. Mr. Chairman, mine were asked so I think we have covered it fully.

Senator BEGICH. Thank you very much again. I want to thank you for your willingness to serve the public and for your family members that are willing to support you in this endeavor. I know it takes a great deal of effort and time. So I want to thank them on our behalf and remind all members also if you have questions to please submit them by 6 p.m. Friday.

Almost. Senator Dorgan, they were smiling. And I hate to say, now they know you're here. So you have tough questions, I'm sure. Senator Dorgan, do you have any questions?

**STATEMENT OF HON. BYRON L. DORGAN,
U.S. SENATOR FROM NORTH DAKOTA**

Senator DORGAN. Mr. Chairman, what an entrance! I didn't mean to come quite this close to the end. I was speaking on the floor of the Senate, but I appreciate your work and I wanted to just come for a moment to say that we have been through a long tortured trail with the Federal Communications Commission in a lot of ways. We have had very discouraging battles inside the Commis-

sion on very important issues, a lot of things have been deferred rather than decided.

And my hope is that we are going to enter into a new era with the FCC. We have a lot of significant issues. Spectrum is very important. We have a lot of spectrum that lies fallow all around the country. I am trying to get the FCC to give us a complete inventory of fallow spectrum. We need to figure out how we can gather that spectrum and use it.

We have a lot of folks who have purchased spectrum with no intention of using it in rural areas. So there we sit, have with the spectrum being auctioned and available and no one wishing to build out anything and rural areas are left behind.

Forbearance petitions, the issue of universal service, the issue of what is the public interest requirement and responsibility with respect to broadcasters. What about concentration of ownership? All of these issues are really important issues. Many have been deferred at the FCC.

I hope for a new FCC with a new era of cooperation. We had in this committee hearings and discussion about reports that were paid for by the taxpayers but were deep-sixed because they didn't report what someone wanted reported. So they never saw the light of day. Things have gone on in recent years that have been very troubling to me so I just wanted to come and say that.

The Federal Communications Commission is a pivotal commission at this point for working a lot of important issues. If anybody wonders about the importance of communications, about the importance for example, of net neutrality which I know is very controversial, but in my judgment needs to be resolved, take a look at what happened in the country of Iran. Take a look at the folks in the streets of Iran and the methods by which they could communicate.

If you ever understand and wonder about the importance of having open access and those kinds of things, just take a look at what was happening in that country. The issue of net neutrality is one that is so important, and as you know, the nondiscrimination rules do not exist at this point because of action by the Federal Communications Commission. The Commission could fix that on its own volition. If not, the Congress should.

The architecture, the open architecture of the Internet, was created with nondiscrimination rules so that anybody anywhere can see and visit and experience anybody anywhere else. And those nondiscrimination rules in my opinion should be reestablished either legislatively or I hope, perhaps with a new determination in the Commission to see that reestablished.

So those are the areas that I did come to say to the nominees, I think both will be—will be successful on the floor of the Senate. And I will be voting for both. And I have great hopes and high hopes for the performance of not only these two nominees but the new chairman of the Commission, and the holdover members, I see at least one in the room, Commissioner McDowell.

So Mr. Chairman, thank you for allowing me to interrupt this right at the end of this hearing, and I wish the nominees well, and I want to indicate that I intend to be voting for them on the floor of the Senate.

Senator BEGICH. Thank you, Senator Dorgan. Again, we want to thank you for your willingness to serve and again we would like to remind members and staff that if they have questions, they should submit them by 6 p.m. on Friday. Thank you very much. This Committee is adjourned.
[Whereupon, at 4 p.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN D. ROCKEFELLER IV
TO MIGNON L. CLYBURN

Question. As part of the Telecommunications Act of 1996, Senator Snowe and I established the E-Rate program to provide schools and libraries with affordable access to telecommunications services and the Internet. No other program has been as singularly effective at closing our educational digital divide. Thanks to the E-Rate program, today more than 90 percent of all classrooms have access to the Internet. Children in the most rural communities are able to enjoy the educational benefits and opportunities that broadband provides. Recognizing the importance of the program, will you commit to me that you will support and protect the E-Rate program as laid out in statute?

Answer. I commit to you my full support for the E-Rate program as it is laid out in the statute. I have experienced first-hand the tremendous value of the program, and I will do everything in my power to protect it and ensure its continued success.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. DANIEL K. INOUE TO
MIGNON L. CLYBURN

Question. The Federal Communications Commission (FCC) formed NECA in 1983 to perform telephone industry tariff filings and revenue distribution. What do you believe is an appropriate level of oversight by the FCC over the activities and decisions made by the NECA?

Answer. I have not yet been briefed by the FCC's staff on the specific activities and decisions of NECA or about the scope of the FCC's oversight of NECA to date. As a general matter, however, I believe that oversight is a crucial ingredient in good governance and is critical to providing efficiency and effectiveness in any program. If confirmed, I look forward to learning more about NECA and working with you and the Committee to ensure the appropriate level of oversight by the FCC.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN F. KERRY TO
MIGNON L. CLYBURN

Question. There are a number of proceedings pending at the FCC that involve making spectrum available in the broadcast bands on an unlicensed basis. These proceedings include the reconsideration of the FCC's so called White Spaces decision, the clearing of wireless microphones from the 700 MHz band, and the FCC work around data bases for white space device use. The important work done so far by the FCC puts us on a road to allowing greater wireless broadband connectivity.

It remains important that these proceedings are concluded in a timely manner and allows the unlicensed use of the spectrum for wireless broadband. What are your thoughts about the broadband potential of the TV White Spaces?

Answer. I am a strong believer in promoting the efficient use of spectrum, and wherever possible extending the benefits of such use to the public. White spaces certainly offer tremendous promise for advanced wireless services, including broadband, and could inspire new innovations yielding great advances for consumers. That being said, as the Commission proceeds in this area, it must protect existing users of licensed services from harmful and/or excessive interference. This is a delicate and difficult balance to achieve, and must be done on the basis of data that is universally available and with the continued participation from all stakeholders.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO
MIGNON L. CLYBURN

Question 1. As part of the Economic Recovery Act, the FCC will develop a national broadband plan by February 2010. In New Jersey, broadband has been deployed throughout the state, but many low-income residents—often in urban areas—cannot afford it, or it does not reach into their buildings. How will the FCC bring broadband to these underserved low-income residents, and not only more rural areas of the country?

Answer. One of the FCC's top priorities over the next year is to develop a National Broadband Plan that sets the stage for ensuring that all Americans have access to high-speed, affordable broadband. This goal applies both to those Americans in rural areas who live in hard-to-reach places, as well as those Americans in urban centers who either do not have access to broadband in their building or block or who simply cannot afford it. It is essential that we find creative ways to ensure that, even in those places where a large percentage of consumers do have access to broadband, we do not overlook those who do not.

An important first step in this process is gathering data on where broadband is currently available and subscriber levels in areas where there is already access to broadband. My understanding is that this endeavor is already underway at the Commission, and if confirmed, I look forward to working with my colleagues to further this process along in order to lay the foundation for meaningful broadband access throughout the country.

Question 2. Almost 8 years after 9/11, we still do not have a national, interoperable public safety communications network. One of the major benefits of the digital television transition that took place last month was supposed to be the creation of this network, but the portion of the airwaves set aside for public safety—known as the “D block”—is still vacant. When do you expect to have a plan for the D block?

Answer. Another important priority for the Commission continues to be working collaboratively with other agencies, as well as the private sector, to help achieve a nationwide, interoperable public safety communications network. As your question notes, we now finally have cleared the necessary spectrum to enable such a network and must refocus our attention on how the 700 MHz spectrum that is designated for first responders can be put to use. If confirmed, I will work with Chairman Genachowski and my fellow Commissioners to ensure that we develop a strong plan for the D block in the very near future.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO
MIGNON L. CLYBURN

Question 1. Over the last 10 years, the U.S. has gone from being a world leader in Internet penetration to being 15th or worse, depending upon what statistics you read. What will you do as FCC Commissioner to reverse this trend?

Answer. The United States should be a world leader in broadband access. A strong first step in this process is the development of a comprehensive and thoughtful National Broadband Plan, which is due from the FCC to Congress in February 2010. That plan must be the result of a process that is open, transparent and inclusive, and must reflect the myriad views from all sectors and regions of the country. I believe strongly that if we engage in a collaborative effort, bringing together the collective expertise of Federal and state agencies as well as the private sector, we can produce a plan that puts us back on a course to be leading the pack in broadband access.

Question 2. As the FCC formulates a national broadband plan, the adoption of broadband by end users should be an important part of measuring its success. Simply laying fiber pipe across the country is not sufficient if people cannot afford or do not understand the economic and practical value of adopting it. What educational efforts or other activities will be needed to ensure high adoption rates for broadband? What do you propose to do to help low-income Americans afford access to broadband?

Answer. I absolutely agree that our work is not done as soon as the fiber pipe is in the ground. Indeed, in one sense, our work has just begun. Congress expressly instructed the FCC in the statute requiring a National Broadband Plan to find ways: (1) to encourage Americans to adopt broadband where feasible and (2) to ensure that access to broadband is affordable. Our mission would be incomplete if we simply cultivated the infrastructure but failed to have most or all Americans take advantage of all broadband has to offer.

As your question suggests, I think one area of focus must be how best to market broadband to different communities. We cannot and should not approach this issue as a one-size-fits-all campaign. The power of broadband will mean different things to different people, and we must recognize that only by speaking to an individual consumer's needs will we be successful in convincing them of its value.

Likewise, it is as important that broadband is affordable. In order to ensure that all Americans have meaningful access to high-speed broadband, consumers must be able to acquire it for a reasonable price. The FCC, in conjunction with all relevant stakeholders, must take a hard look at the best mechanisms to deliver broadband that is affordable, and take the appropriate steps, if necessary, to ensure that broadband is not just a goal but a reality for all Americans. I look forward to working with you and the Committee to find the best manner in which to achieve this end.

Question 3. Ms. Clyburn, you discuss in your testimony the importance of ensuring all Americans have access to communications technologies. Today many rural Americans—who make up 17 percent of the U.S. population—are much less likely to have broadband than suburban or urban dwellers. I hope you share my view that rolling out broadband to rural America today should be made a top priority. What will you do as FCC Commissioners to ensure that rural Americans benefit from advanced telecommunications, including broadband?

Answer. Coming from a rural state—South Carolina—I am very aware of and concerned about the need for rural Americans to benefit from advanced telecommunications, such as broadband. Not only is the Internet an essential element to sustained economic success, but it is also extremely important to many individuals and families in rural communities where access to medical assistance and educational services is limited. Therefore, in the Commission's work on the National Broadband Plan, it needs to be aware of the significance of broadband to rural America and creative about ways in which the plan can ensure that those communities have broadband access in the near future.

Question 4. During the campaign, President Obama said that reforming our universal service system will be a priority. I think that this essential if we are going to ensure affordable Internet access in rural parts of the country. Like the telephone in an earlier era, broadband has become essential in many ways. Job seekers must often look online for employment listings and file their applications electronically. Companies are less likely to locate or expand to areas where high speed Internet access is not affordable. Important public information from government agencies and news outlets is often available online.

Will universal service reform be a top priority for the FCC under your leadership?

What principles should guide any effort to reform universal service?

Universal service does not cover broadband. Would you support universal service reforms to ensure greater Internet access for low income and rural Americans?

Answer. Comprehensive Universal Service Fund (USF) reform is one of the most challenging and important issues facing the Commission today. The USF has been an essential part of ensuring that nearly all Americans have meaningful access to voice service, and thus it is important that we find ways to ensure its long-term health.

Our current challenge is to encourage the deployment of basic and advanced telecommunications services to all Americans and to ensure that the essential USF can facilitate the broadband build-out our Nation requires. I believe that our mission should be to reform the USF so as to enable all of our citizens, regardless of where they live in the country, to have meaningful access to broadband.

Because of the significance and complexity of the USF, any reform must be thoughtful and deliberate, and must aim to make the fund more effective and efficient. Moreover, a critical component of any USF reform is oversight, which must be robust without being overly burdensome.

Question 5. When we met to discuss your interest in becoming FCC Commissioner, I related a story about President Clinton visiting Shiprock, New Mexico, where a girl who won a computer did not have a telephone line or Internet access at home.

Too many tribal areas still do not have basic phone service, let alone broadband. Telephone access in Indian country today is less than 70 percent. Broadband access may be only 10 percent. Although the FCC has taken some positive steps to address this problem, the digital divide facing Indian country obviously is still a challenge. How will the FCC under your leadership work to erase the digital divide in Indian country?

Answer. The digital divide in Indian country is staggering and one of the toughest challenges we face. One way in which the FCC can help erase that divide is through

its National Broadband Plan, which is due to Congress in February 2010. The FCC has been tasked with providing universal access to broadband, including a detailed strategy for achieving affordability of such service, which is undoubtedly a crucial factor in making high-speed broadband a reality in Indian country. If confirmed, I look forward to working with you on this important issue.

Question 5a. Given the distinct challenges and unique situation of our Nation's tribes, do you support having a tribal office within the FCC to better assist tribes' efforts to gain access to modern telecommunications services?

Answer. There is no doubt that our Nation's tribes present distinct challenges and a unique situation for the Commission, and that those circumstances demand a more tailored approach. I am open to all ideas on ways in which to improve the FCC's dealing with our Nation's tribes, and if confirmed, I look forward to hearing more about how such an office would function and what role it might play within the FCC's existing consumer outreach structure.

Question 5b. My understanding is that the Telecommunications Act does not specifically mention tribes yet it should be understood that tribes were meant to be included. Will you support a flexible regulatory approach in order to meet the spirit of the law when helping tribes improve telecommunications access in Indian country?

Answer. I have not yet been briefed on the issue of the scope of the Telecommunications Act with respect to our Nation's tribes. I am interested in learning more about this issue, and if confirmed, I would be eager to work with you to further understand your concerns and provide support consistent with Congress's intent.

Question 5c. It has been 10 years since the FCC focused on tribal lands in a hearing on telephone services, can the Commission reinstate hearings that focus directly on broadband and other critical services to tribal lands?

Answer. If confirmed, I would support the Commission reinstating hearings that concern broadband and other critical services to tribal lands.

Question 6. Most Americans now consider the digital TV transition over. However, New Mexicans living in rural areas will continue to receive analogue TV until their local TV translators switch to digital next year or later. How will the FCC ensure that these rural TV viewers will not be left in the dark when the DTV transition finally takes place in their area?

Answer. My understanding is that there is no current schedule for the transitioning of non-full-power stations to all-digital television. When that occurs, however, the FCC should employ the same focus and determination it demonstrated following the passage of the DTV Delay Act in order to ensure that those Americans currently relying on analog TV translators are clear about when the transition will occur and what steps they need to take to be digital-ready prior to the transition.

Question 6a. How should the FCC and broadcasters address the issue of "digital white spaces" created in rural areas where free broadcast TV will no longer be available to some Americans?

Answer. There is no doubt that the Nation's move to all-digital television for full-power stations was necessary and wise. By freeing up a significant amount of spectrum, we can now go about the business of building a nationwide interoperable public safety network and open the door to new advanced wireless technologies that will benefit consumers.

At the same time, we must also recognize that the transition has left some consumers, including those in rural parts of the country, without the broadcast service to which they had been accustomed. From what I understand, the FCC has taken certain important steps to create avenues for such service to be restored. For example, the FCC is permitting new "fill-in" replacement translator service, which is aimed at problems created by the transition and is designed for use within full-service stations' service contours. I applaud efforts such as this one and, if confirmed, will work with you, the Committee and the Commission staff to find ways to help all consumers have access to free, over-the-air television.

Question 7. New Mexico is a rural state where most areas have just one or two cell phone providers. This situation already limits consumer choices. People in rural areas with few wireless companies to choose from have even fewer options for phone handsets due to exclusivity arrangements between carriers and phone manufacturers. This exacerbates the digital divide between urban and rural areas.

With traditional wireline service, one can take any telephone to any home or office and just plug it in to make calls—no matter who the service provider is. Yet if one changes wireless carriers, one often has to buy a new phone. This seems wasteful and unnecessary. What policies would you support to increase the availability of smartphones to consumers, particularly those that live in rural areas?

Answer. I agree with the view expressed by then-Acting Chairman Copps in favor of opening a proceeding to examine wireless handset exclusivity arrangements. This is an important issue, with significant implications for consumers—especially those in rural areas. As the Nation’s expert agency in this area, the Commission should determine the effect of such arrangements on consumer choice and on the development of innovative devices. I have not formed an opinion on the underlying matter, and if confirmed, I can assure you that I will review any matters on this subject with an open mind and will take seriously the impact on consumers of such arrangements.

Question 7a. Do you believe public policy should mandate that wireless networks allow any new handset to connect to it, similar to the existing situation with wireline service since the Carterfone decision?

Answer. As I noted above, I have not prejudged this issue and I am looking forward to reviewing the record, if confirmed. It is important that the Commission aim to stimulate innovation, investment and competition and that it consider the impact on consumers at every stage of its proceedings.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MEL MARTINEZ TO
MIGNON L. CLYBURN

Question 1. In addition to the legal applications and services, the Internet has also become a vehicle for criminal behavior like the dissemination of child pornography and IP theft. The explosion of pornography is especially disturbing. Ms. Clyburn, do you agree that there is a critical imperative that technological capabilities to block pornographic materials and pirated IP like films and television should be permitted in the context of appropriate network management? Can I have your assurance that the Commission will adhere to this important concept to protect U.S. public?

Answer. I agree that technological capabilities to block unlawful material—such as child pornography, obscenity, or pirated IP like films and television—should be permitted as part of an operator’s reasonable network management. You have my assurance that I will adhere to this position in order to protect the public and owners of copyrighted material.

Question 2. Global copyright theft costs U.S. workers more than \$16 billion in lost wages and 373,000 jobs each year. Much of this theft is occurring over broadband networks. In your view, are net-neutrality, or so-called non-discrimination, obligations at odds with the ability of broadband providers to take steps to stem this tide of unlawful activity on their networks?

Answer. I do not believe that the concept of network neutrality is at odds with the ability of broadband providers or network operators to stem the tide of unlawful activity on their networks. In my view, a broadband provider or network operator should be able to engage in reasonable network management, including to prevent unlawful activity from occurring on its network. I certainly do not believe that such management represents “discrimination” for purposes of network neutrality, which is a concept that only extends to lawful content and conduct.

Question 3. It is generally agreed that greater broadband access is important because it creates jobs not only in the telecom and related sectors, but also through the economic opportunities generated by reliable broadband access in rural and underserved communities. This is all very good. At the same time, we know that a number of important U.S. industries are facing increasing challenges stemming from counterfeiting and piracy on broadband networks. Not only does such piracy result in substantial job losses in these and related industries, but it also results in large amounts of forgone tax revenues and economic output. It is important that as we work to invest taxpayer dollars to stimulate job growth in one sector, we don’t simply offset those gains by fostering an environment that stimulate job losses and reduced economic output in other important American industry sectors. To that end we should encourage broadband providers to do what they can to deter piracy and counterfeiting on their networks. Can you assure us that the policies you will implement, any adoption of a so-called “nondiscrimination principle” will not prevent broadband providers from engaging in reasonable and voluntary efforts to do so?

Answer. I can assure the Committee that my support for an open Internet does not entail preventing broadband providers from engaging in reasonable and voluntary efforts to deter piracy and counterfeiting on their networks.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN ENSIGN TO
MIGNON L. CLYBURN

Question 1. It seems clear that there are physical, logistical, and technological differences between wireline and wireless broadband networks. Do you agree? Wireless certainly has different capacity and speed constraints compared to wireline broadband. As such, wireline and wireless networks are operated and managed differently. As the FCC considers network management regulations and develops a national broadband policy, do you believe that a one-size-fits-all regulatory approach for broadband makes sense?

Answer. I do not believe that a one-size-fits-all approach is appropriate when it comes to broadband regulation. Most notably, different geographical areas of the country present unique physical, logistical and technological challenges to the provision and adoption of broadband service. A host of different issues must be addressed when developing a nationwide broadband plan that covers diverse places from Alaska to Nevada to South Carolina.

That being said, as with any sector of the economy that cuts across the nation, there must be certain basic principles that apply to all elements of a nationwide broadband plan. In developing such overarching principles, the FCC must be open and transparent and must solicit and evaluate input from all stakeholders. By engaging in this process, the Commission can ensure that it takes account of, among other things, distinct types of broadband services and varying geographies, and therefore ultimately produces a plan that effectively sets the stage for ensuring broadband access for all Americans.

Question 2. Technological convergence has dramatically changed the face of communications over the last decade. What do you think this means for the FCC and communications policymakers? Having served on the Public Service Commission of South Carolina since 1998, how has the dramatic changes in the marketplace during that time impacted your views on your role as a regulator?

Answer. One of the most exciting aspects of today's communications landscape is communications "convergence"—where wireless, wireline and video communications are becoming increasingly intertwined. We no longer strictly adhere to the traditional model that presented wholly distinct telecommunications markets; now we are seeing direct competition between once distinct players. In some ways, this state of affairs has forced the FCC and relevant state agencies to rework their regulatory frameworks.

There are a number of examples of how this changed landscape has impacted my views on my role as a regulator. In some cases, the changing marketplace has put the regulation of certain services beyond the South Carolina PSC's reach. In other cases, technological convergence has required us to address the new public safety vulnerabilities that have emerged as a result (*e.g.*, E9-1-1). In still others, because of the impact of wireless technologies on traditional investor-owned telephone companies in South Carolina, we have had to make significant adjustments to the State's universal service fund.

The common thread in each of the above examples is that as regulators, we must be attuned to the constantly evolving marketplace and be prepared to identify and account for implications of that evolution. If confirmed, I will continue to evaluate such changes and work with my colleagues to determine what regulatory approach in each instance makes good sense to allow businesses to compete and thrive, and for consumers to reap the benefits.

Question 3. The Obama Administration has prioritized infrastructure investment in the United States, from both a public and private perspective. This includes technology infrastructure. As Commissioner, will you prioritize private sector investment in broadband and telecommunications infrastructure? Could you give us some examples of how you might do this?

Answer. If confirmed, I will prioritize private sector investment in broadband and telecommunications infrastructure. There is no question that private sector investment in such infrastructure is essential to achieving universal broadband deployment and adoption, as well as meeting the other goals set forth by Congress for the FCC as part of the National Broadband Plan. In order to ensure effective private sector investment, the FCC must, at a minimum, conduct processes that are open and transparent, and create a regulatory environment that is clear and predictable. If confirmed, I look forward to working with you, the Committee and my colleagues to figure out the best ways to involve the private sector in our goal to ensure access to broadband for all Americans.

Question 4. U.S. consumers use more wireless minutes and pay less money per minute than their European counterparts. Furthermore, according to the FCC, mo-

bile Internet penetration is higher in the United States than in any major European country. What does that say about the state of the U.S. wireless market? Doesn't that indicate that the current U.S. regulatory model is working?

Answer. The wireless sector is one of the most promising elements of our Nation's telecommunications future. To the degree that the domestic wireless market is robust, I believe that we should support the existing framework and ensure that the landscape permits continued investment and innovation. Put differently, where economic analysis indicates that markets are functioning properly, we should allow them to thrive and intervene only when necessary and wise.

Question 5. Local broadcasters take seriously their responsibility to serve their communities. Even in the face of a serious economic recession, I believe they provide an extremely diverse menu of news, information, sports, and entertainment for free. How do you view broadcasters' demonstrated commitment to serve the public interest? Do you support imposing burdensome operating and reporting regulations on broadcasters, like so-called "localism" requirements?

Answer. Many local broadcasters have strong and positive records of meeting their obligations to serve their communities and the public interest. When broadcasters provide an extremely diverse menu of news, information, sports and entertainment, the public interest is undoubtedly well served. If confirmed, this is a goal I wholeheartedly support and believe that the broadcast industry can and should have a positive impact on our Nation's future.

I want to affirm that I do not support imposing unwarranted burdensome operating and reporting regulations on broadcasters. If confirmed, I will work with Chairman Genachowski to ensure that all of our processes are open and transparent, and that our rules are derived from an inclusive process through which all stakeholders have ample opportunities to participate.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHNNY ISAKSON TO
MIGNON L. CLYBURN

Question 1. I have always been actively involved in taking the appropriate steps to combat child pornography on the Internet.

As you know, in September of 2005, the FCC adopted a set of net neutrality principles that explicitly allows broadband providers to take reasonable steps to prevent unlawful activity such as child pornography and piracy or theft of copyrighted content over their networks.

I have recently been made aware of the fact that it rejects the critical imperative that technological capabilities to block pornographic materials and pirated IP, like films and television be permitted. I am interested in knowing that it is your intention to confirm and adhere to this policy during your tenure as an FCC Commissioner.

Answer. I support the FCC's existing net neutrality principles insofar as they permit broadband providers to take reasonable steps to prevent unlawful activity such as child pornography and piracy or theft of copyrighted content over their networks. In my view, we may and should preserve the openness of the Internet while allowing providers to prevent the dissemination of unlawful material.

Question 2. Our broadband ranking has stagnated at 15th in the world for a few years now. Competition is a key ingredient in driving investment and system upgrades that will improve broadband quality. What policies will you advocate while at FCC to ensure that our global broadband ranking increases, and promotes competition?

Answer. One of the goals of our National Broadband Plan must be laying the groundwork for improving our global broadband standing in the world. I concur that competition is an important factor in reaching that goal. In order to develop a program that spurs competition, the FCC must produce a plan that results from a comprehensive understanding of the marketplace through current data and an open, transparent and inclusive process.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DAVID VITTER TO
MIGNON L. CLYBURN

Question 1. At the hearing, you discussed your view of the need for network openness for lawful content. I'd like to ask for a little more clarification on this important issue. As you know, in September of 2005, the FCC adopted a set of principles that explicitly allows broadband providers to take steps to prevent unlawful activity, such as child pornography and piracy or theft of copyrighted content over their net-

works. Is it your intention to adhere to this policy during your tenure at the FCC and continue to allow service providers to act against illegal activity and not be overly hindered by openness regulations?

Answer. My intention is to adhere to the FCC's policy of permitting service providers to act against illegal activity in order to comply with the law. As I understand it, the principle of network neutrality applies solely to the management of lawful traffic, and in no way prevents or hinders service providers from taking important steps to curtail unlawful activity.

Question 2. What do you think can be done at the FCC to improve efforts to help parents protect their children from indecent content on television?

Answer. In my view, the FCC should do everything in its power, consistent with the First Amendment, to assist parents in their efforts to protect their children from indecent content on television. I care deeply about this issue, and in addition to enforcing the current laws as passed by Congress, would like to see parents empowered with an array of tools at their disposal to make smart choices for their children.

A positive step undoubtedly is the Child Safe Viewing Act which, among other things, requires the FCC to produce a report to Congress by the end of next month on the state of advanced blocking technologies. Understanding the overall landscape is an important start if the FCC is to find ways to arm parents and guardians with the knowledge and ability to monitor and restrict their children's access to inappropriate television content. If confirmed, I look forward to reviewing the record and working with Congress to continue this important momentum in the right direction.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JIM DEMINT TO
MIGNON L. CLYBURN

Question 1. What are your thoughts on "localism" mandates and community advisory boards for broadcasters and the content they air?

Answer. As you may know, a proceeding on this very question is currently pending before the Commission. See Report on Broadcast Localism and Notice of Proposed Rulemaking, 23 FCC Rcd 1324, ¶26 (2008). I assure you that I have not prejudged this matter and, if confirmed, I look forward to reviewing the record and understanding your concerns as well as those of others in order to reach an appropriate decision. If confirmed, I intend to support a process that is open and transparent and that gives ample time for public participation. Only then can the Commission reach a well-reasoned and thoughtful decision that truly benefits the American people.

Question 2. It is possible that community advisory boards may become populated by members of ideological groups and not provide an accurate representation of their local communities. Will you commit to oppose any efforts to use these local content advisory boards for partisan political purposes?

Answer. As noted above in my answer to Question 1, due to the fact that the question of community advisory boards is currently before the Commission, and that I have not prejudged the issue, I do not have a view on this matter at the current time. I can say, however, that "partisan political purposes" are inconsistent with the public interest and therefore have no role in attempting to promote the Commission's core media values of diversity, localism and competition.

Question 3. How will you support and promote facilities-based competition in the communications market?

Answer. If confirmed, I will work with the Chairman and my fellow Commissioners to implement and enforce the laws relating to facilities-based competition as enacted by Congress. It bears noting, however, that one of the primary areas in which facilities-based competition can and should be enhanced is wireless communications. The United States should strive to be a leader in the wireless world and, if confirmed, I will urge the FCC to lay the groundwork for continued innovation and opportunity in the wireless market to further support and promote facilities-based competition in the overall communications market.

Question 4. Do you believe broadband services should be eligible for Federal universal service support?

Answer. One of our Nation's central ongoing challenges is to encourage the deployment of basic and advanced telecommunications services to all Americans. As part of this effort, I believe that the Universal Service Fund should, if at all possible and reasonable, help facilitate the broadband build-out our Nation requires. The FCC should make its best efforts to reform the USF so as to enable all of our citi-

zens, regardless of where they live in the country, to have meaningful access to broadband.

Question 5. Does Section 254 of the Communications Act authorize support for these services or does the Act need to be amended to authorize it?

Answer. I have yet to be briefed in any detail on this issue by Commission staff and the General Counsel and would not want to reach a conclusion on this matter without first doing so. I do note, however, that under Section 254(c)(2), Congress determined that “[u]niversal service is an evolving level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services.” In the same subsection, Congress authorized the Federal-State Joint Board on universal service to recommend to the Commission changes in “the definition of the services that are supported by Federal universal service support mechanisms.” The Act therefore appears to contemplate a flexible and evolving definition of “universal service.”

If confirmed, I am interested in consulting with Congress and the Commission’s expert staff on this matter to determine the scope of section 254 with respect to broadband.

Question 6. Please identify any specific occurrences or activities that, in your opinion, have violated net neutrality.

Answer. My understanding is that the FCC has brought at least two enforcement actions against network operators for violating net neutrality principles. In one instance, a petition alleged that an ISP was blocking its customers’ access to VoIP service. In another, a network operator was alleged to have unlawfully interfered with peer-to-peer file-sharing protocols.

I am also aware that the Commission has taken certain actions with respect to network discrimination in the context of mergers in the telecommunications industry in order to ensure that the general principles of network neutrality are upheld.

Question 7. Please also explain how the resolution of these episodes would have been expedited or improved had there been in place an enforceable rule or law mandating net neutrality.

Answer. Because I was not involved in those matters and have only a basic understanding of how they unfolded, I am unable to address with any specificity how and whether their resolution would have been expedited or improved had there been in place enforceable rules or laws mandating net neutrality.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO
MIGNON L. CLYBURN

Question 1. As you are probably aware, this committee was actively engaged in the issue of media ownership last session when the FCC decided to relax a crucial media ownership rule—specifically, lifting the 32-year-old absolute ban on newspaper/broadcast cross-ownership.

My concern is that such action will ultimately lead to further consolidation within the industry instead of focusing on what is truly needed, which is effectively promoting localism and diversity in media ownership. To that point, a report by the Consumer Federation of America, Consumers Union and Free Press, utilizing the FCC’s own data, showed that lessening newspaper-broadcast cross-ownership rules resulted in a net loss in the amount of local news that is produced across local markets by broadcast stations. Also, minority and women ownership of media outlets are also at dreadful levels—currently only 6 percent of full-power commercial broadcast radio stations are owned by women and 7.7 percent are owned by minorities. Ownership of broadcast TV is even lower—5 percent for women and only 3.3 percent for minorities.

Given your experience as a newspaper owner, what specifically can the FCC and/or Congress do to better address the continuing problems the industry is facing and at the same time protect the fundamental tenets of competition, localism and diversity?

Answer. There is no question that the media industry is undergoing significant changes in today’s marketplace. If confirmed, I will take a close look at the continuing problems in the media industry when evaluating the degree to which the broadcast industry is adhering to the Commission’s core media values of diversity, localism and competition.

That being said, the fact that the media industry looks different today than it did in the past does not alleviate the need to ensure that our media is diverse and provides meaningful local content. The numbers you cite with respect to minority and

female ownership are distressing and the Commission must marshal its resources to better understand the problem in order to develop solutions that will benefit all Americans. I believe that my 14 years as a small business owner of a newspaper in South Carolina give me a special appreciation for the challenges faced by entrepreneurs and, if confirmed, undoubtedly will help inform my overall approach to this critical issue.

Question 2. An additional concern I had during the FCC's action was the lack of time the Commission allowed the public to comment on its specific rulemaking. While the FCC had its media ownership proceeding open for some 17 months, it provided only 28 days for public comment on the specific proposal, when the Commission has historically provided 60–90 days on similar proceedings. Do you believe the FCC's actions were just in providing such a short time-frame for public comment on such a crucial issue?

Answer. There is no question that the Commission must conduct open and transparent proceedings and ensure that the public has ample opportunity to participate in its decision-making process. Our government simply cannot be a government by, for and of the people if it fails to include them in a meaningful way.

Early in his tenure, Chairman Genachowski has made clear that he intends to run an open and transparent Commission. If confirmed, I will fully support him in this endeavor and champion transparency and inclusiveness at every stage of the process.

Question 3. Given that the FCC is charged with regulating interstate and international communications by radio, television, wire, satellite and cable, if the Court rules in favor of Comcast and states the FCC didn't have the authority to enforce its Internet Principles, what steps will you take as Commissioners to ensure the Commission does have the power to protect consumers' ability to access content of their choice—fostering the creation, adoption and use of broadband Internet content, applications and services, and ensuring that consumers benefit from that innovation, which is what the principles were adopted for in the first place? Do you support the codification of the FCC Internet Principles?

Answer. I am a strong believer in the openness of the Internet and the benefits it has provided consumers and businesses throughout the world. It is unlikely that we would have seen the level of innovation, capital investment and small business development that has occurred if the Internet had not been an open platform. I therefore believe that the Commission should do its part to maintain the openness of the Internet so that it can continue to serve as an engine of incredible economic growth and general welfare for our Nation.

As you have indicated, a related matter is currently pending before the D.C. Circuit. If confirmed, I will continue to support finding ways to protect the open nature of the Internet that are consistent with the law.

Question 4. As you may know, I have been a champion for legislation that would ensure the inherent openness and freedom of the Internet remain intact and that carriers cannot use their networks in anticompetitive ways against content or applications providers or with new entrants. These protections are essential for allowing innovation to flourish at all points of the Internet supply chain.

At the same time, I am cognizant that there has to be an appropriate level of flexibility for network operators to effectively manage their networks to ensure quality of service (QoS) to all customers as well as to combat the growing problem of piracy that plagues the Internet. According to the International Federation of the Phonographic Industry (IFPI), 40 billion songs were illegally downloaded in 2008 worldwide and that 95 percent of online music downloads are completed illegally. Obviously this illegal traffic attributes to the congestion that some broadband consumers experience when surfing the web as well as an undue increase in operational costs to network operators for delivering this illegal content.

Do you have concerns about the growing problem of piracy? What are your views in balancing the necessity of ensuring the Internet remains open and that users can access lawful content, applications and services without restriction with our concerns that ISPs must be able to manage their networks in an appropriate way to maintain QoS and to protect against unlawful activities such as piracy and child pornography?

Answer. I am concerned about the growing problem of piracy and other unlawful activities on the Internet. It is a real and present concern that must be taken seriously by all relevant parties. To that end, my understanding of the concept of net neutrality is that it is fully consistent with permitting ISPs to manage their networks in appropriate ways to ensure that they are an equitable vehicle for lawful content. Moreover, in order to ensure that all Americans have equal and open access

to the Internet, networks must be able to engage in reasonable management practices designed to enhance their quality of service to all consumers.

Question 5. A 2008 Pew Internet & American Life Project survey found that approximately 62 percent of dial-up users said they weren't interested in switching to broadband. That same survey also found that 33 percent of non-Internet users say they are not interested in using the Internet. So while we must focus on making sure affordable broadband is available to all Americans, we also must make sure that any "digital divide" is not self-inflicted—that individuals are aware and understand the importance of broadband and the countless benefits it can provide to them.

The American Recovery and Reinvestment Act of 2009, does address this issue with tasking the FCC with developing a national broadband plan that includes a "detailed strategy for achieving affordability of such service and maximum utilization of broadband infrastructure and service by the public."

What specific initiatives/proposals do you believe would be beneficial to achieving that goal of consumer awareness and education? And how involved should the government be in addressing that effort and improving the digital literacy of Americans?

Answer. You have identified an essential ingredient to any comprehensive National Broadband Plan. The Commission can set the stage for broadband reaching all corners of the country, but if the adoption rate is low, our mission would be incomplete. It is important that the Commission engages in a data-driven process that includes information about adoption rates and studies about how to ensure that all Americans appreciate the incredible impact broadband can have on their daily lives.

By the same token, we must also lay the groundwork for broadband that is affordable. There is no question that the cost of broadband services plays and will continue to play a role in Americans' decisions whether or not to subscribe. Therefore, in conjunction with robust consumer awareness and education plans, the Commission must also find creative ways to ensure that once aware and educated, American consumers are able to afford broadband service.

Question 6. As the FCC moves forward in its effort to establish a national broadband policy, in its notice of inquiry, the Commission seeks comment the definition of broadband. In its semiannual High-Speed Services for Internet Access Report, it historically collected data on lines that were 200 Kbps or higher. In revising the Form 477 collection it expands the number of broadband speed tiers but still uses 200 Kbps as a minimum standard.

However, the United Kingdom, in its Digital Britain report, loosely defines broadband at 2 Mbps by outlining the countries effort to deliver its Universal Service Broadband Commitment at 2Mbps (a baseline service standard) by 2012.

What are your thoughts as to what the appropriate definition of "broadband" should be—should it be a numerical value or a service metric defined by different services running concurrently over a connection or something else?

Answer. The issue of how to define broadband is crucial to the overall National Broadband Plan. If confirmed, I am looking forward to hearing from all parties in order to evaluate the best way in which to define "broadband." I believe the only manner in which to develop the most appropriate and comprehensive definition is to have a process that is open and transparent and that encourages robust public participation. Under the leadership first of Acting Chairman Copps and now of Chairman Genachowski, the Commission appears to be off to a great start, and if confirmed, I look forward to working with the Chairman and my fellow Commissioners to develop a comprehensive and thoughtful plan by February 2010.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CHARLES GRASSLEY TO
MIGNON L. CLYBURN

Question 1. The FCC has already been working hard on broadband deployment issues through notices of inquiry. I'm happy to see the Commission thinking long-term and look forward to seeing the results. However, I'd like to know if there are any reforms to the USF program that could be taken in the shorter term, such as ensuring rural carriers that have purchased underinvested assets of the Nation's largest carriers have a meaningful opportunity to qualify for high-cost support. If so, would these include qualifying for support based on forward-looking economic cost or cost estimates based on population density?

Rural and non-rural carriers serve high cost, rural areas of the country—such as in Iowa, yet their USF distribution mechanisms differ. Worse yet, some "rural" carriers don't receive any high cost support because of bad investment and business decisions made by the previous owners of their network. As FCC Chairman, what

changes would you propose to the current system that would more equitably allocate high cost USF support? Would standardizing the funding based on forward-looking costs be a more realistic approach that would result in a more equitable distribution of support?

Answer. Universal service reform is one of the most important issues facing the Commission today. If confirmed, I pledge to look at all pieces of the program to ensure that it is running efficiently and effectively so that we are receiving the greatest return on our investment nationwide.

Despite our need for comprehensive and thorough reform, there also may be interim steps that can be taken to correct some of the more glaring weaknesses in the program. If confirmed, I look forward to working with you and other representatives of rural areas of the country to evaluate the best mechanisms for high-cost USF support. I believe that all options should be on the table, and any decisions must reflect the real-world challenges faced by carriers and be based on a data-driven process. I already have a strong sense of some of these challenges, having served as a regulator in a largely rural state for more than a decade.

Question 2. The FCC has had before it the remand from the Tenth Circuit concerning the non-rural high-cost universal service program for the entire time you have been on the Commission and just received yet another round of comments. The non-rural program is currently the only means by which a carrier can qualify for USF support based on forward-looking economic cost. Based on your experiences at the Commission, what are your thoughts on how to determine eligibility to receive high-cost funding? Do you think the current distinctions between the rural and the non-rural programs make sense?

Iowa is a predominantly rural state. The GAO reported in 2008 that the USF high cost fund's structure has contributed to inconsistent distribution of support and availability of services across rural America. If we fail to remedy this situation of today's system, the problem will likely only get worse if the system is expanded to include broadband support. Why do you think vastly different high-cost support mechanisms present a fundamental inequity in the USF system? How should this inequity be addressed by the FCC to remedy the situation?

Answer. While I have some familiarity with the specifics of the Universal Service Fund, I have not yet been fully briefed by FCC staff on the different high-cost support mechanisms operating under the USF. If confirmed, I look forward to hearing more about your concerns on this subject and working with you and my colleagues to ensure that the fund operates effectively and efficiently and continues to serve as a positive force in ensuring essential telecommunications services for all Americans.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV
TO MEREDITH ATTWELL BAKER

Question 1. As part of the Telecommunications Act of 1996, Senator Snowe and I established the E-Rate program to provide schools and libraries with affordable access to telecommunications services and the Internet. No other program has been as singularly effective at closing our educational digital divide. Thanks to the E-Rate program, today more than 90 percent of all classrooms have access to the Internet. Children in the most rural communities are able to enjoy the educational benefits and opportunities that broadband provides. Recognizing the importance of the program, will you commit to me that you will support and protect the E-Rate program as laid out in statute?

Answer. Yes. I recognize and appreciate the importance of the E-rate program, which has been unsurpassed in connecting schools and libraries in communities, thus allowing all Americans access to the transformative power of broadband. If confirmed, you have my assurance that I am fully committed to supporting and protecting the E-rate program as laid out in statute.

Question 2. Part of the reason Congress delayed the digital television (DTV) transition from February to June 2009 was due the converter box coupon program running out of funds. As head of the National Telecommunication and Information Administration (NTIA), you oversaw the DTV coupon program and monitored its progress. Why was the funding problem not identified prior to the end of 2008?

Answer. The Bush Administration, particularly the Office of Management and Budget, saw the DTV coupon program as part of the Deficit Reduction Act, rather than a vital consumer program. Although I urged otherwise, the Administration would not agree to request from Congress either additional funds or an Anti-Deficiency Act waiver. Rather, they elected to propose additional budget authority only after the maximum dollar amount for redeemed and active coupons was reached.

Thus, although I identified the funding problem prior to the end of 2008, I did not have the necessary support to resolve the matter. Given the importance of the DTV coupon program and the proximity to the (then) DTV transition date, I worked in a transparent and collaborative manner with the Obama Administration Transition Team and Congress to present options for solving the problem in the most effective and efficient manner.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. DANIEL K. INOUE TO
MEREDITH ATTWELL BAKER

Question. The Federal Communications Commission (FCC) formed NECA in 1983 to perform telephone industry tariff filings and revenue distribution. What do you believe is an appropriate level of oversight by the FCC over the activities and decisions made by the NECA?

Answer. The Commission has a duty to ensure that the National Exchange Carrier Association (NECA) conducts its business in accordance with applicable Commission rules and guidelines. I agree with those that have suggested an operational, financial and ethics audit of the FCC and its related entities. If confirmed, I will work to ensure that NECA is included in that process.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN F. KERRY TO
MEREDITH ATTWELL BAKER

Question. There are a number of proceedings pending at the FCC that involve making spectrum available in the broadcast bands on an unlicensed basis. These proceedings include the reconsideration of the FCC's so called White Spaces decision, the clearing of wireless microphones from the 700 MHz band, and the FCC work around data bases for white space device use. The important work done so far by the FCC puts us on a road to allowing greater wireless broadband connectivity. It remains important that these proceedings are concluded in a timely manner and allows the unlicensed use of the spectrum for wireless broadband. What are your thoughts about the broadband potential of the TV White Spaces?

Answer. I believe that the TV white spaces hold great potential for broadband, and I followed the FCC's action last fall with great interest. I think that it is important to utilize spectrum in efficient, transparent and flexible ways so as to unleash its great potential for the American people. Moreover, I am hopeful that the advanced services offered by this new spectrum will present additional opportunities for entrepreneurs—including women, small businesses and minorities—to enter the communications industry. I confirmed, I look forward to joining my FCC colleagues to continue to build upon the FCC's early and exciting success.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO
MEREDITH ATTWELL BAKER

Question 1. As part of the Economic Recovery Act, the FCC will develop a national broadband plan by February 2010. In New Jersey, broadband has been deployed throughout the state, but many low-income residents—often in urban areas—cannot afford it, or it does not reach into their buildings. How will the FCC bring broadband to these underserved low-income residents, and not only more rural areas of the country?

Answer. If confirmed, I will proceed mindful of the importance of competitive and technological neutrality. Given the diverse geography and demographics of our nation, the plan must not favor one particular technology or type of provider over another, even inadvertently. Broadband deployment throughout America is not a one-size-fits-all proposition. Wireline, wireless and satellite technologies are each worthy alternatives. Low income residents in New Jersey will benefit from the lower prices resulting from the competition among an array of service providers. If confirmed, I look forward to working with Congress and my Commission colleagues to develop a thoughtful, practical and pragmatic National Broadband Plan.

Question 2. Almost 9 years after 9/11, we still do not have a national, interoperable public safety communications network. One of the major benefits of the DTV Transition that took place last week was supposed to be the creation of this network, but the portion of the airwaves set aside for public safety—known as the “D block”—is still vacant. What accounts for this delay? When do you expect to have a plan for the D block?

Answer. One of the most important benefits of the digital television transition is the “D block,” which has the promise to deliver nationwide public safety interoperability. If confirmed, I will work closely with my FCC colleagues to learn more about this important endeavor and to devise a plan for moving forward. I will also listen to Congress, and engage the public safety community regarding new ideas. I am hopeful that this is a challenge that will take priority and will be resolved in the very near term.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO
MEREDITH ATTWELL BAKER

Question 1. Over the last 10 years, the U.S. has gone from being a world leader in Internet penetration to being 15th or worse, depending upon what statistics you read. What will you do as FCC Commissioner to reverse this trend?

Answer. The National Broadband Plan that Congress has charged the Commission to complete by February of next year is an important and strategic opportunity to ensure that the proper environment exists so that broadband can continue to flourish. Hopefully, this plan will include economic incentives to build out infrastructure faster at higher speeds and set a regulatory climate that rewards innovation, investment and encourages competition. A spectrum policy that unleashes the value of the public airwaves is critical, as is effective and efficient management of programs such as universal service. If confirmed, I pledge to work collaboratively with my colleagues to devise a timely, thorough and thoughtful plan.

Question 2. As the FCC formulates a national broadband plan, the adoption of broadband by end users should be an important part of measuring its success. Simply laying fiber pipe across the country is not sufficient if people cannot afford or do not understand the economic and practical value of adopting it. What educational efforts or other activities will be needed to ensure high adoption rates for broadband? What do you propose to do to help low-income Americans afford access to broadband?

Answer. If confirmed, I look forward to closely collaborating with Congress and my Commission colleagues to identify and implement an array of methods to educate consumers on the benefits of broadband. Moreover, if confirmed, I will proceed mindful of the importance of maintaining competitive and technological neutrality. Given the diverse geography and demographics of our nation, the plan must not favor one particular technology or type of provider over another, even inadvertently. Broadband deployment throughout America is not a one-size-fits-all proposition. Wireline, wireless and satellite technologies are each worthy alternatives. Low income residents in New Mexico will benefit from the lower prices resulting from the competition among an array of service providers. If confirmed, I look forward to working with Congress and my Commission colleagues to develop a thoughtful, practical and pragmatic National Broadband Plan.

Question 3. Ms. Baker, you note that the “FCC has the keys to unleashing the power of broadband.” Today many rural Americans—who make up 17 percent of the U.S. population—are much less likely to have broadband than suburban or urban dwellers. I hope you share my view that rolling out broadband to rural America today should be made a top priority. What will you do as FCC Commissioners to ensure that rural Americans benefit from advanced telecommunications, including broadband?

Answer. As noted above, I will proceed mindful of the importance of competitive and technological neutrality. Given the diverse geography and demographics of our nation, the plan must not favor one particular technology or type of provider over another, even inadvertently. Broadband deployment throughout America is not a one-size-fits-all proposition. Wireline, wireless and satellite technologies are each worthy alternatives. Low income residents in New Mexico will benefit from the lower prices resulting from the competition among an array of service providers.

Question 4. During the campaign, President Obama said that reforming our universal service system will be a priority. I think that this is essential if we are going to ensure affordable Internet access in rural parts of the country. Like the telephone in an earlier era, broadband has become essential in many ways. Job seekers must often look online for employment listings and file their applications electronically. Companies are less likely to locate or expand to areas where high speed Internet access is not affordable. Important public information from government agencies and news outlets is often available online. Will universal service reform be a top priority for the FCC under your leadership? What principles should guide any effort to reform universal service? Universal service does not cover broadband. Would you

support universal service reforms to ensure greater Internet access for low income and rural Americans?

Answer. While Chairman Genachowski will set the FCC's agenda, if confirmed, I would work with him and all of my FCC colleagues, to ensure that universal service reform proceeds in a timely, transparent and collaborative manner. With respect to guiding principles, I think that predictability in the subsidy support level would bring greater certainty in the marketplace and assurance to customers that they will receive affordable high quality services. If confirmed, I would proceed with the hope that a reformed system would operate in the most efficient and effective manner possible—collecting only the amount necessary, and spending only what is collected. Finally, as traditional wireline communication has moved to wireless, and as more and more services ride on the Internet platform, I think it is becoming more apparent that broadband should be part of a modernized universal service system. I am hopeful that the FCC's National Broadband Plan would include a discussion setting forth options on this question.

Question 5. When we met to discuss your interest in becoming FCC Commissioners, I related a story about President Clinton visiting Shiprock, New Mexico, where a girl who won a computer did not have a telephone line or Internet access at home.

Too many tribal areas still do not have basic phone service, let alone broadband. Telephone access in Indian country today is less than 70 percent. Broadband access may be only 10 percent. Although the FCC has taken some positive steps to address this problem, the digital divide facing Indian country obviously is still a challenge. How will the FCC under your leadership work to erase the digital divide in Indian country?

Given the distinct challenges and unique situation of our Nation's tribes, do you support having a tribal office within the FCC to better assist tribes' efforts to gain access to modern telecommunications services. My understanding is that the Telecommunications Act does not specifically mention tribes yet it should be understood that tribes were meant to be included. Will you support a flexible regulatory approach in order to meet the spirit of the law when helping tribes improve telecommunications access in Indian country?

It has been 10 years since the FCC focused on tribal lands in a hearing on telephone services, can the Commission reinstate hearings that focus directly on broadband and other critical services to tribal lands?

Answer. Through my visits to New Mexico, I have grown to recognize that tribal lands face unique challenges and, given that they are some of the most under-served parts of America, have not meaningfully benefited from one-size-fits-all solutions. Given these circumstances, I understand that the FCC has created exceptions within the universal service program that are designed to ensure that companies operating in these remote areas will continue to receive high-cost support to provide their services while the Commission is considering the possibility of a more comprehensive reform. I also understand that the FCC has an attorney on its staff with responsibility for outreach to tribal lands. If confirmed, I look forward to learning more about the unique challenges that face tribal citizens and to joining with you and my colleagues to continue to make progress to eliminate disparities.

Question 6. Most Americans now consider the digital TV transition over. However, New Mexicans living in rural areas will continue to receive analogue TV until their local TV translators switch to digital next year or later. How will the FCC ensure that these rural TV viewers will not be left in the dark when the DTV transition finally takes place in their area? How should the FCC and broadcasters address the issue of "digital white spaces" created in rural areas where free broadcast TV will no longer be available to some Americans?

Answer. I fully support efforts to ensure that all over-the-air TV viewers continue to enjoy TV service. If confirmed, I will join with my FCC colleagues to identify any lingering challenges and resolve them expeditiously.

Question 7. New Mexico is a rural state where most areas have just one or two cell phone providers. This situation already limits consumer choices. People in rural areas with few wireless companies to choose from have even fewer options for phone handsets due to exclusivity arrangements between carriers and phone manufacturers. This exacerbates the digital divide between urban and rural areas. With traditional wireline service, one can take any telephone to any home or office and just plug it in to make calls—no matter who the service provider is. Yet if one changes wireless carriers, one often has to buy a new phone. This seems wasteful and unnecessary. What policies would you support to increase the availability of smartphones to consumers, particularly those that live in rural areas? Do you believe public pol-

icy should mandate that wireless networks allow any new handset to connect to it, similar to the existing situation with wireline service since the Carterfone decision?

Answer. From my own personal experiences as a wireless consumer, I understand the frustration. I also appreciate the desire of smaller companies to offer their customers a fuller complement of handsets. I was interested to learn of one company's recent compromise on exclusive handset agreements and hope these industry-driven solutions continue. On the other hand, I understand that there are about 30 companies that manufacture wireless devices for the U.S. market, and that over 630 different handsets are sold in the U.S. Moreover, I recognize that the Commission has a longstanding precedent against participation in private contractual disputes, which may be at the heart of this matter. If confirmed, I look forward to working with Congress and my FCC colleagues on this challenging issue.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO
MEREDITH ATTWELL BAKER

Question 1. The Government Accountability Office has issued several reports over the past 7 years on spectrum policy. One report, *Options for and Barriers to Spectrum Reform* (GAO-06-526T) released in March 2006, stated that “the current management framework may pose barriers to reform” and that the GAO had previously made several recommendations to address this issue such as: (1) for the Commerce Secretary and FCC to establish and carry out formal, joint planning activities to develop a national spectrum plan to guide decisionmaking and (2) that relevant administrative agencies and Congressional committees work together to develop and implement a plan for the establishment of a commission that would conduct a comprehensive examination of current spectrum management. At the time of the report's release, it was noted that neither of those recommendations had yet been implemented. Since that time, do you know if those recommendations have been considered or implemented? If not, could you elaborate on why not?

Answer. During my tenure as Acting Assistant Secretary at the National Telecommunications and Information Administration (NTIA), I was privileged to work on a comprehensive report pertaining to the Nation's airwaves used by the Federal Government, *The Federal Strategic Spectrum Plan*. Our work was based on submissions of spectrum plans from 15 Federal agencies. As you know, the report described how the Federal Government uses spectrum and provided a framework for the National Spectrum Plan, which was called for by a 2004 Executive Memorandum and was to be completed in conjunction with the Federal Communications Commission. Unfortunately, the FCC has not yet completed their work on this plan. Therefore, the spectrum inventory, such as proposed in your bill, would be a beneficial exercise and, if undertaken in a thoughtful and deliberate matter, lay a foundation for more transparent, flexible and efficient spectrum management.

I have a keen interest in spectrum matters, and, more specifically the means and tools to maximize spectral efficiency. If confirmed, I look forward to advancing the work of the Commission in this area, partnering with the NTIA and Federal users, as well as closely coordinating with Congress to optimize spectrum use and management.

Question 2. The biggest issue last year with respect to network neutrality was with Comcast and its management of peer-to-peer traffic. In August of last year, the FCC concluded that Comcast violated the Commission's Internet open-access guidelines by blocking BitTorrent peer-to-peer traffic and found that Comcast's broadband-network-management practices were arbitrary and capricious. The Commission gave the carrier 30 days to “disclose the details” of those “unreasonable” network practices, as well as its plan for replacing them by year's end with network-management practices acceptable to the FCC. Comcast subsequently filed suit against the Commission challenging the FCC's authority to enforce those principles.

Given that the FCC is charged with regulating interstate and international communications by radio, television, wire, satellite and cable, if the Court rules in favor of Comcast and states the FCC didn't have the authority to enforce its Internet Principles, what steps will you take as Commissioners to ensure the Commission does have the power to protect consumers' ability to access content of their choice—fostering the creation, adoption and use of broadband Internet content, applications and services, and ensuring that consumers benefit from that innovation, which is what the principles were adopted for in the first place?

Answer. Protecting consumers' ability to access the content of their choice is a responsibility that I take seriously. All policymakers have a duty to engage in principled and transparent decisionmaking. If confirmed, I will work collaboratively and

constructively with my colleagues to ensure that we proceed in a prudent and thoughtful manner.

Question 2a. Do you support the codification of the FCC Internet Principles?

Answer. As policymakers, we all have an interest in ensuring the free flow of lawful content over the Internet. On the other hand, I would be concerned about any regulatory action that could lead to unintended harmful consequences. That said, debating this matter will be a healthy exercise. If confirmed, I look forward to engaging with my FCC colleagues, Congress and interested parties. As noted above, I will work collaboratively and constructively to ensure that the FCC proceeds in a transparent, prudent and thoughtful manner.

Question 3. As you may know, I have been a champion for legislation that would ensure the inherent openness and freedom of the Internet remain intact and that carriers cannot use their networks in anticompetitive ways against content or applications providers or with new entrants. These protections are essential for allowing innovation to flourish at all points of the Internet supply chain.

At the same time, I am cognizant that there has to be an appropriate level of flexibility for network operators to effectively manage their networks to ensure quality of service (QoS) to all customers as well as to combat the growing problem of piracy that plagues the Internet. According to the International Federation of the Phonographic Industry (IFPI), *40 billion songs were illegally downloaded in 2008 worldwide and that 95 percent of online music downloads are completed illegally.* Obviously this illegal traffic attributes to the congestion that some broadband consumers experience when surfing the web as well as an undue increase in operational costs to network operators for delivering this illegal content.

Do you have concerns about the growing problem of piracy? What are your views on balancing the necessity of ensuring the Internet remains open and that users can access lawful content, applications and services without restriction with our concerns that ISPs must be able to manage their networks in an appropriate way to maintain QoS and to protect against unlawful activities such as piracy and child pornography?

Answer. It is reported that global copyright theft costs U.S. workers more than \$16 billion in lost wages and 373,000 jobs each year. Illegal copyright infringement is a threat to our economy, our creativity and our global competitiveness. On the other hand, all policymakers have an interest in ensuring the free flow of lawful content over the Internet. For this reason, I would be concerned about any regulatory action that would have the potential to lead to unintended harmful consequences such as impairing a network owner's ability to protect against unlawful content and activities, such as piracy, spam, denial of service attacks or child pornography. If confirmed, I look forward to engaging with my FCC colleagues, Congress and interested parties. I would work collaboratively and constructively to ensure that the FCC proceeds in a transparent, prudent and thoughtful manner.

Question 4. A 2008 Pew Internet & American Life Project survey found that approximately 62 percent of dial-up users said they weren't interested in switching to broadband. That same survey also found that 33 percent of non-Internet users say they are not interested in using the Internet. So while we must focus on making sure affordable broadband is available to all Americans, we also must make sure that any "digital divide" is not self-inflicted—that individuals are aware and understand the importance of broadband and the countless benefits it can provide to them.

The American Recovery and Reinvestment Act of 2009, does address this issue with tasking the FCC with developing a national broadband plan that includes a "detailed strategy for achieving affordability of such service and maximum utilization of broadband infrastructure and service by the public."

What specific initiatives/proposals do you believe would be beneficial to achieving that goal of consumer awareness and education? And how involved should the government be in addressing that effort and improving the digital literacy of Americans?

Answer. Under Acting Chairman Copps' leadership, the FCC did an outstanding job to educate and prepare consumers for the transition to digital television and lessons from this effort could be replicated. If confirmed, I look forward to working with my FCC colleagues, and coordinating with interested parties, to study the successes (and failures, if any) from the DTV transition process. The Commission appears to be well-poised to develop and implement educational efforts to increase consumer awareness regarding and use of broadband services. I would be pleased to be part of this effort.

Question 5. As the FCC moves forward in its effort to establish a national broadband policy, in its notice of inquiry, the Commission seeks comment the defini-

tion of broadband. In its semiannual High-Speed Services for Internet Access Report, it historically collected data on lines that were 200 Kbps or higher. In revising the Form 477 collection it expands the number of broadband speed tiers but still uses 200 Kbps as a minimum standard.

However, the United Kingdom, in its Digital Britain report, loosely defines broadband at 2 Mbps by outlining the countries effort to deliver its Universal Service Broadband Commitment at 2Mbps (a baseline service standard) by 2012. What are your thoughts as to what the appropriate definition of “broadband” should be—should it be a numerical value or a service metric defined by different services running concurrently over a connection or something else?

Answer. Given the diverse nature of our Nation and the corresponding need to proceed in a technologically neutral manner, I would be reluctant at this time to define broadband in strict terms that might impede innovation. If confirmed, I look forward to joining with my colleagues and with interested parties on this important component of the FCC’s work.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JIM DEMINT TO
MEREDITH ATTWELL BAKER

Question 1. What are your thoughts on “localism” mandates and community advisory boards for broadcasters and the content they air?

Answer. I am aware that the FCC has a pending proceeding that proposes to require broadcasters to consult with advisory boards regarding content. While I do not want to appear to prejudge the outcome of this pending proceeding, I will state that I would be concerned about even the appearance of government involvement in station programming. I strongly believe in the First Amendment, and that the competitive marketplace provides broadcasters with the proper incentives to cover their local communities.

Question 2. It is possible that community advisory boards may become populated by members of ideological groups and not provide an accurate representation of their local communities. Will you commit to oppose any efforts to use these local content advisory boards for partisan political purposes?

Answer. Yes. I am committed to opposing any efforts to use any local content advisory boards for partisan political purposes.

Question 3. How will you support and promote facilities-based competition in the communications market?

Answer. If confirmed, I would work with Congress and my FCC colleagues to promote facilities-based competition by eliminating regulatory barriers and creating incentives for entering the communications marketplace. Of particular note is the promise of new facilities-based competition through new wireless technologies. New AWS and 700 MHz spectrum is coming into the market, with carriers launching new markets with regularity. White spaces spectrum will also provide an exciting opportunity for new entrepreneurs to enter the marketplace and provide additional competition. I am excited about the prospect of creating new avenues for competition, which delivers untold benefits to American consumers.

Question 4. Do you believe broadband services should be eligible for Federal universal service support?

Answer. Please see answer below.

Question 5. Does section 254 of the Communications Act authorize support for these services or does the Act need to be amended to authorize it?

Answer. With respect to questions 4 and 5, I understand that some universal service funds may be used for the purpose of deploying broadband services—for instance, to upgrade existing facilities or to construct new facilities. It may be inevitable and appropriate that universal service funding will continue to support broadband deployment. That said, the importance in analyzing options that would reform both the contribution and distribution universal service support mechanisms is apparent given that the funding contribution factor is now above 12 percent. If confirmed, I will closely coordinate with Congress, my FCC colleagues and interested parties to learn more about the universal service support systems, including whether Congress would need to amend Section 254 of the Communications Act to include funding for broadband deployment.

Question 6. Please identify any specific occurrences or activities that, in your opinion, have violated net neutrality.

Answer. Please see answer below.

Question 7. Please also explain how the resolution of these episodes would have been expedited or improved had there been in place an enforceable rule or law mandating net neutrality.

Answer. I am aware of the *Madison River* case, where the FCC took swift enforcement action against a carrier that was engaged in anti-competitive content blocking. This case demonstrated that the Commission has the requisite tools to act quickly to investigate and resolve charges of unlawful activity. As a result, I am not convinced that this episode could have been expedited or improved. At the end of the day, consumers were the victors. Likewise, I am not convinced additional rules or policies on “net neutrality” are necessary. I would be concerned about any proposal to impose intrusive new regulations given the possible unintended harmful consequences—such as stifling innovation and investment. This is especially true given that the marketplace is rushing to satisfy the ever-evolving consumer demand. If confirmed, I look forward to engaging with my FCC colleagues, Congress and interested parties to ensure that the FCC proceeds in a transparent, prudent and thoughtful manner.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHNNY ISAKSON TO
MEREDITH ATTWELL BAKER

Question 1. I have always been actively involved in taking the appropriate steps to combat child pornography on the Internet. As you know, in September of 2005, the FCC adopted a set of net neutrality principles that explicitly allows broadband providers to take reasonable steps to prevent unlawful activity such as child pornography and piracy or theft of copyrighted content over their networks.

I have recently been made aware of the fact that it rejects the critical imperative that technological capabilities to block pornographic materials and pirated IP, like films and television be permitted. I am interested in knowing that it is your intention to confirm and adhere to this policy during your tenure as an FCC Commissioner.

Answer. I think there is beginning to be a consensus that network operators must be able to enlist reasonable network management tools to maintain a functioning Internet and that there is a distinction between lawful and unlawful content. Unlawful content—child pornography, spam, denial-of-service attacks and pirated IP—has no protection. While network operators must not “discriminate” in an anti-competitive manner against lawful content, they nonetheless must have the flexibility to manage their networks without compromising the innovation that has led to the robust Internet today.

Question 2. Our broadband ranking has stagnated at 15th in the world for a few years now. Competition is a key ingredient in driving investment and system upgrades that will improve broadband quality. What policies will you advocate while at FCC to ensure that our global broadband ranking increases, and promotes competition?

Answer. The National Broadband Plan that Congress has charged the Commission to complete by February of next year is an important and strategic opportunity to ensure that the proper environment exists so that broadband can grow and continue to flourish. Hopefully this plan will include economic incentives to build out infrastructure faster at higher speeds and set a regulatory climate that rewards innovation, investment and encourages competition. A spectrum policy that unleashes the value of the public airwaves is critical, as is effective and efficient management of programs such as universal service. If confirmed, I pledge to work with my colleagues to ensure a timely, thorough and thoughtful plan.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CHARLES GRASSLEY TO
MEREDITH ATTWELL BAKER

Question 1. The FCC has already been working hard on broadband deployment issues through notices of inquiry. I’m happy to see the Commission thinking long-term and look forward to seeing the results. However, I’d like to know if there are any reforms to the USF program that could be taken in the shorter term, such as ensuring rural carriers that have purchased underinvested assets of the Nation’s largest carriers have a meaningful opportunity to qualify for high-cost support. If so, would these include qualifying for support based on forward-looking economic cost or cost estimates based on population density?

Rural and non-rural carriers serve high cost, rural areas of the country—such as in Iowa, yet their USF distribution mechanisms differ. Worse yet, some “rural” car-

riers don't receive any high cost support because of bad investment and business decisions made by the previous owners of their network. As FCC Chairman, what changes would you propose to the current system that would more equitably allocate high cost USF support? Would standardizing the funding based on forward-looking costs be a more realistic approach that would result in a more equitable distribution of support?

Answer. While the Universal Service system has been instrumental in keeping Americans connected and improving their quality of life, this system is in need of comprehensive reform. As noted earlier, if confirmed, I look forward to working with Congress and my FCC colleagues to tackle these challenging and important issues.

Question 2. The FCC has had before it the remand from the Tenth Circuit concerning the non-rural high-cost universal service program for the entire time you have been on the Commission and just received yet another round of comments. The non-rural program is currently the only means by which a carrier can qualify for USF support based on forward-looking economic cost. Based on your experiences at the Commission, what are your thoughts on how to determine eligibility to receive high-cost funding? Do you think the current distinctions between the rural and the non-rural programs make sense?

Iowa is a predominantly rural state. The GAO reported in 2008 that the USF high cost fund's structure has contributed to inconsistent distribution of support and availability of services across rural America. If we fail to remedy this situation of today's system, the problem will likely only get worse if the system is expanded to include broadband support. Why do you think vastly different high-cost support mechanisms present a fundamental inequity in the USF system? How should this inequity be addressed by the FCC to remedy the situation?

Answer. If confirmed, I look forward to working with my colleagues to satisfactorily resolve the questions posed to us by the Tenth Circuit and to continuing our work toward fundamental reform of the intercarrier compensation and Universal Service systems. In that context, the Commission can appropriately address the Commission's decision to provide different support mechanisms for rural and non-rural carriers.