

**STATEMENT OF
CHAIRMAN TOM WHEELER**

Re: *Expanding Access to Mobile Wireless Services Onboard Aircraft, Notice of Proposed Rulemaking, WT Docket 13-301.*

Today's proposal to remove outdated rules and expand access to mobile wireless services during air travel is pro-free market, pro-competition, pro-consumer, pro-technology, and de-regulatory. It has also garnered a great deal of attention and been widely misunderstood.

Let me say up front that, I get it. I don't want the person in the seat next to me yapping at 35,000 feet any more than anyone else. So then why are we still moving forward with this item?

To answer that question, let's look at what this proposal does and does NOT do.

First off, today's action represents the beginning of a process to collect information and consumer input. As always, we will review input from the public before taking any final action.

Next, the *status quo* requirement that cellphones may not be used in-flight would be retained. The prohibition, in fact, would be explicitly expanded. The current rule applies only to phones operating on the 800MHz frequency band and ignores all other cellular frequencies. This regulatory inconsistency is poor policy.

The rule change on which we seek comment would extend that prohibition to all frequency bands *unless* the aircraft is outfitted with on-board equipment that manages a cellular signal before it has the potential to interfere with terrestrial networks. Absent such equipment, the ban would remain in effect.

However, if an airline installs new on-board equipment, the FCC's ban is no longer necessary. Our engineering belief (on which comment is sought) is that it is technically safe to use the new onboard equipment to prevent interference with terrestrial networks. The proposal would not require airlines to either install such equipment, or to offer mobile wireless services aboard their aircraft. Airlines would be free, within the confines of the rules of the Federal Aviation Administration (FAA) and Department of Transportation (DoT), to make their own decisions. We simply propose that because new technology makes the old rule obsolete the FCC should get government out from between airlines and their passengers. Where there is not a need for regulation, the free market works best to determine the appropriate outcome.

So how might this play out for consumers? If an airline decides to install an on-board access system consumers would be permitted to use their existing mobile devices and not be limited to signing up for WiFi. And the airline would be in total control of what types of mobile services to permit. A mobile device can send texts and emails, and can surf the Web. A mobile device can also make a voice call. The technology allows for the differentiation among such services. Thus, airlines would be free to make their own determination whether to program the new equipment to block voice calls while permitting texting, email and Web surfing, consistent with the rules of the authorities on aviation safety and consumer issues: the FAA and the DoT. I am pleased that the DoT today announced that will begin a process that will look at the possibility of banning in-flight calls.

Today's proposal is intended to solicit input. It is not a final decision. We look forward to the technology and consumer input this proposal will generate. We invite all interested parties to participate and file comments.

Today's vote is about more than just how you can use your mobile phone on airplanes; it's about how this agency should do its job.

The FCC is the expert agency on communications. It is charged with making technology-based decisions.

For over 20 years, an FCC rule from the analog era of cell phones has banned the use of mobile devices on airplanes because of the potential to interfere with terrestrial networks below. But on-board mobile access technology has been operational internationally with great success for the last five years. In accord with that experience, and other data, the Commission's engineers believe that there are no technical reasons to prohibit such technology to operate in the United States. If the basis for the rule is no longer valid, then the rule is no longer valid. It's that simple.

The FCC is sometimes criticized for relying on outdated rules that do not reflect current technologies or markets. This is a textbook opportunity to do something about eliminating an unnecessary regulation of the FCC and letting the marketplace function. If we are serious about eliminating outdated regulations that serve no purpose, the decision is clear. A vote not to proceed on seeking comments on this issue is a vote against regulatory reform.

Finally, a word on process. Going back to Commissioner McDowell, there have been calls for increased transparency in the matter in which the FCC presents issues to the public, notably that NPRMs should include proposed rules. I support the calls for this reform. Such a rebuttable presumption allows respondents to target their comments. Failure to include a rebuttable presumption from being the focus of debate would not be in the spirit of procedural improvement, and that is why I am pleased this Notice adopts such an approach.

We need to update this rule for the benefit of consumers and to reflect accurately changing technical realities. I urge support for an effort to start this process.