



NEWS

News Media Information 202 / 418-0500
TTY 202 / 418-2555
Fax-On-Demand 202 / 418-2830
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

FOR IMMEDIATE RELEASE:
May 2, 2000

SEPARATE STATEMENT OF COMMISSIONER HAROLD FURCHTGOTT-ROTH

Re: Auction Of Licenses For The 747-762 And 777-792 MHz Bands Postponed Until September 6, 2000 - Report No. AUC-00-31-F (Auction No. 31) and Auction Of Licenses For The 700 MHz Guard Bands Postponed Until September 6, 2000 - Report No. AUC-00-33-D (Auction No. 33) (Released May 2, 2000)

I respectfully disagree with the today's Public Notice regarding a delay in the 700 MHz auction until September 6, 2000. The law is clear: the Commission is to conduct these auctions "in a manner that ensures that all proceeds of such bidding are deposited in accordance with Section 309(j)(8) of the Communications Act of 1934 . . . not later than September 30, 2000." In addition, the facts are clear: there is no technical or physical reason that the Commission cannot meet its statutory deadline. Nonetheless, today's decision virtually ensures that all auction proceeds will not be deposited prior to September 30, 2000.¹ I do not believe that it is appropriate for the Commission to even contemplate substituting its policy judgment for the judgment written in law by Congress and signed by the President. The law is for the FCC to follow as written, not to select which portions we will follow and which portions we will choose to ignore for policy reasons, no matter how compelling.

If outside parties have lobbied the FCC to have the auction date changed, I am quite confident they will also have lobbied Congress. If there is a compelling reason to change the date, I am confident that Congress can make that determination on its own and find a legislative solution. If Congress fails to change the law, then we all must execute it as written regardless of the spectrum or fiscal policy consequences.

It may well be that the statutory deadline is not optimal as a matter of spectrum policy. It may also be true that Congressional leaders do not object to some delay. In my view, however, the FCC cannot utilize a "wink and nod" with Congressional leaders to escape a statutory mandate. Our job is to follow the law as written; the American people have a right to expect nothing less.

¹ In this case, I believe the Commission could have delayed the auction date for some period of time, while still complying with the statutory mandate. It is not clear to me that there is any policy or regulatory advantage to be gained from a three-month delay that could not accomplished through a shorter delay that still maintained compliance with statute.

