

STATEMENT OF COMMISSIONER
MICHAEL J. COPPS

RE: Auction of Licenses in the 747-762 and 777-792 MHz Bands and Auction of Licenses in the 698-746 MHz Band.

After a great deal of deliberation, I agree with today's decision to proceed as scheduled with the auction of licenses in the 698-746 band and temporarily to postpone the auction of licenses in the 747-762 and 777-792 MHz bands.

The statutory directives related to auction dates for the 700 MHz band are ambiguous. I have spent many hours trying to parse their meaning and intent. Reasonable arguments can be made for proceeding forthwith or delaying the auctions. Just about any conclusion in this matter involves some interpretive stretch on the part of the Commission.

Legitimate, but inconsistent, interpretations of section 309(j)(14)(C)(ii) of the Communications Act of 1934 and section 3007 of the Balanced Budget Act of 1997 provide no clear statutory language on which to determine Congressional intent. Legislative history related to these provisions is, unfortunately, also inconsistent. Given these conflicting possible interpretations, I am forced to attempt to meet our responsibilities in the best way possible.

I believe that moving forward with the lower 700 MHz band will both advance the goal of deploying rural wireless services and will move us towards resolution of assignment questions for this band, which Congress appears to value. I believe that our action today on the lower 700 MHz band has a sounder basis in statute and legislative history than would a delay of the entire band. A temporary postponement of at least part of the 700 MHz band, while controversial, seems in order given the apparent intent of Congress to legislate on this matter in the near-term future. The House of Representatives has already passed legislation, and reports of possible Senate action should give the Commission pause in moving ahead in the face of these Congressional concerns. Today's delay will allow Congress time to consider pending legislation related to auctions.

It should be noted that the Commission is forced to act now because the auction clock is running and a decision could not have been made subsequent to this that would have accommodated completing an auction this fall.

For these reasons, I support today's decision on this matter.