

**STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN
APPROVING IN PART, DISSENTING IN PART**

*Re: Promoting Efficient Use of Spectrum Through Elimination of Barriers to the
Development of Secondary Markets, WT Docket No. 00-230*

Less than a year ago, the Commission adopted its First Report and Order establishing new policies and rules for secondary market spectrum leasing. In that Order, we achieved an important balance between a market that encourages and nurtures new technologies and spectrum use and one that does not diminish the Commission's ultimate control over the spectrum. Our decision today is an important follow-up to the steps we took last year and generally continues to maintain the balance that I believe is an essential element of good spectrum policy.

I support most of our Order because it acknowledges the importance of secondary markets and takes additional steps to further their development. The Order builds on our initial spectrum leasing framework for secondary markets emphasizing spectrum facilitation and innovation. It promotes our ultimate goal of a robust secondary market.

I strongly believe that secondary markets offer significant opportunities for effective and efficient spectrum use. Secondary markets hold a great deal of promise for the entire nation and particularly for rural areas. By removing burdensome regulatory obstacles, we get the spectrum into the hands of the people who are willing and ready to use it.

I also am pleased to see that the Commission has identified additional avenues for licensees and lessees to use the spectrum. Non-traditional approaches to spectrum facilitation, like the private commons, open the door to more users – which in turn leads to new services. As long as the Commission maintains the right balance, non-traditional approaches can potentially increase the development of secondary markets.

However, I am forced to dissent from a portion of this item because I fear the majority loses its balance in adopting so-called “immediate approval” procedures for certain license transfers and assignments. I am not convinced that there is such a problem with our streamlined transfer and assignment rules and procedures that would warrant a determination to forbear from requiring prior notification for certain transfers and assignments. Indeed, the current procedures with the 21-day waiting period have only been in place for six months. More importantly, though, I think our forbearance analysis falls short here. One of the Commission's bedrock obligations is spectrum management, and I am just not convinced that it is in the public interest for us to forbear from a prior review of all license assignments and transfer of control. The public interest prong of our forbearance analysis is a high bar, and I do not believe that we have developed anywhere near the record to meet it.

In the future, as we move forward to develop our policies for secondary markets we need to maintain the balance between Commission authority and market-based access opportunities. As long as the scales remain equal, I believe that secondary markets will only continue to thrive.