

**STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

Re: Unlicensed Operation in the TV Broadcast Bands; Second Report and Order and Memorandum Opinion and Order, ET Docket No. 04-186

Today the Commission takes a critically important step towards managing the public's spectrum to promote efficiency, and to encourage the development and availability of innovative devices and services.

White spaces are the blank pages on which we will write our broadband future. I have long called for not only a "third pipe" into the home but a "third channel" directly to consumers, wherever they may roam. Today, we make a key advance toward a third channel for broadband competition and deployment. This Order is a central element of the national broadband strategy that I have advocated for quite some time.

Today's decision is consequential to our nation's future because wireless broadband has the potential to improve our economy and quality of life in even the remotest areas. One of the best options for promoting broadband and competition across the country, particularly in rural areas, is maximizing the potential of spectrum-based services. Because we are a nation of innovators and entrepreneurs, the Commission's decision to open fallow spectrum to new uses will give our country an opportunity to reclaim its place as a world leader in broadband deployment.

Wireless devices have become a central part of many of our lives. As the market continues to expand, so too does our need for spectrum and infrastructure that can meet the rising demands. Our job as a Commission is to pack as much data as possible over the public spectrum without causing harmful interference. Unlicensed spectrum holds by far the most promise for maximizing the use of white spaces. Our balanced approach in this order provides the flexibility and low barriers to entry needed to provide an opportunity for everyone to make the best use of this under-used spectrum. It also implements safeguards to protect those that already make valuable use of the spectrum.

The results of the Office of Engineering and Technology's study show that geo-location technology offers an accurate and dependable means of protecting spectrum incumbents from interference. I am pleased with our decision to require both master-client based and independent based devices to utilize geo-location technology and database access for identifying vacant channels. Because broadcasters have such a vital role in local communities, preservation of consumers' television reception and other services is critical to acceptance of new white spaces devices. Although spectrum-sensing technology has not yet been proven to offer the same level of protection, I applaud our support for its continuing development and look forward to the innovation it may bring.

I am pleased that my colleagues have agreed to provide details regarding the certification process for white space devices. These additional details will provide an

avenue for public comment on this process and ensure that the resulting process is fully vetted by interested parties.

Many have raised the concern that broadcasters and users of wireless microphones will suffer harmful interference as a result of this Order. The Office of Engineering and Technology assures us that there are adequate protections here to prevent harmful interference to licensed users, and I accept their assurances.

It is small consolation to those that feel justifiably aggrieved by the process that there was overwhelming support for acting now, and that more time was unlikely to change the outcome. This process is not a model of transparency. When the Commission puts expediency ahead of an open process, it creates unnecessary resentment from parties that believe they were not given a fair hearing. This is not the process I would have undertaken, but since our independent engineering staff justifies the decision on the basis of their best expert analysis, I approve this item.

An issue of great concern remains, though, that many unwary consumers purchased wireless microphones that may not comport with Commission rules. An investigation is underway, and if we find that Commission rules were violated, we must act to protect the many musicians, performers and others who will need to ensure their equipment continues to work. While I am hopeful the protections we adopt today are sufficient, we will need to closely follow the impact on users of wireless microphones, and devise solutions, considering all spectrum at our disposal, so they can continue to use them with confidence they will function as they have come to expect.

I am pleased that the Chairman and my colleagues have agreed to launch a separate Notice of Inquiry (NOI) into the best use of the white space spectrum for higher powered unlicensed operations in rural areas. In order for the white spaces to achieve maximum utilization in rural areas, rural wireless Internet service providers will need cheap, available and reliable backhaul. We need to explore all ways of achieving this. Variable power limits deserve our consideration as one possible means. I would have preferred that these questions were raised in a Notice of Proposed Rulemaking rather than an NOI, and that they covered all spectrum, but getting this discussion underway is a positive development.

Historians looking at American telecommunications policy may well view today as a day that heralded change not only with the nationwide vote that is taking place at the polls, but also the vote that takes place here to open the white spaces for broadband deployment. Both portend great progress for our future technological development. Just as I enthusiastically voted at the polls earlier this morning, I vote again enthusiastically for this item here today.