

**STATEMENT OF COMMISSIONER MICHAEL O'RIELLY,
CONCURRING IN PART AND DISSENTING IN PART**

Re: Rates for Inmate Calling Services, WC Docket No. 12-375.

There is no dispute that the prison payphone market as a whole does not seem to be functioning properly. I concur with the initiation of this Second Further Notice to review and consider comments to address the problem. Where I may differ from some of my colleagues is on how best to tackle it. I would prefer to permit real competition within the facilities because, over time, competition has proven to be the best way to protect and benefit consumers, lower costs, and encourage innovation. Therefore, I am glad that the Second Further Notice now includes a section on ways to reduce barriers to entry and competition.

Working with Commissioner Clyburn and her staff, as well as with the Chairman's office and Bureau staff, questions about ways to remove barriers to competition were added and the item was edited to strike a more neutral balance throughout. This process worked for me, and it is what enables me to concur in part.

The reason I dissent in part, however, is that absent a compelling and actionable record on competition, the Second Further Notice leads us down a highly regulatory path that I would not have imagined possible based on the statute alone. Section 276 was intended to protect payphone providers that had been unable to receive fair compensation for their service, not to dictate, for example, whether they charge per minute or per call, or how they recover legitimate fees. Moreover, while we all must review the record in response to the Second Further Notice, I am concerned that this extensive item and the Commission's previous work in this area have set the stage for extreme rate regulation once more that I am unlikely to favor.