

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY**

Re: *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services*, GN Docket No. 14-177; *Establishing a More Flexible Framework to Facilitate Satellite Operations in the 27.5-28.35 GHz and 37.5-40 GHz Bands*, IB Docket No. 15-256; *Petition for Rulemaking of the Fixed Wireless Communications Coalition to Create Service Rules for the 42-43.5 GHz Band*, RM-11664; *Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 to Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, WT Docket No. 10-112; *Allocation and Designation of Spectrum for Fixed-Satellite Services in the 37.5-38.5 GHz, 40.5-41.5 GHz and 48.2-50.2 GHz Frequency Bands; Allocation of Spectrum to Upgrade Fixed and Mobile Allocations in the 40.5-42.5 GHz Frequency Band; Allocation of Spectrum in the 46.9-47.0 GHz Frequency Band for Wireless Services; and Allocation of Spectrum in the 37.0-38.0 GHz and 40.0-40.5 GHz for Government Operations*, IB Docket No. 97-95

Today, we consider two items that will facilitate the development and deployment of next-generation systems. I think we can all agree that to make 5G a reality and maintain the U.S. leadership position in wireless technologies—which is of top priority—the Commission must provide adequate resources, along with the appropriate environment for investment, innovation, and deployment. This will require both putting more spectrum out into the marketplace and ensuring that infrastructure can be timely and widely deployed. Contrary to some other nations, we do not execute industrial policy in the U.S., but we do have the right and obligation to make spectrum bands available and establish a hospitable regulatory framework for our commercial wireless providers so that their ingenuity and creativity can flourish domestically and internationally. I will not let the U.S. lose the race to 5G due to regulatory barriers or Commission ineptitude.

Today's item starts with opening up an additional 1700 megahertz for wireless 5G networks in the 24 and 47 GHz bands. Along with the bands we previously identified, the Commission has now made available almost 13 gigahertz of millimeter wave spectrum for wireless flexible use. As part of the first order in this proceeding, I negotiated with and pushed the heck out of then-Chairman Wheeler to seek comment on a handful of additional bands, including 24 and 47 GHz. At the time, I acknowledged that not all bands may be capable of handling additional uses and the Commission would be able to move on some bands sooner than others. These bands are ready to go now, and I applaud Chairman Pai for moving expeditiously. Ultimately, it is important that we keep working on the remaining bands and identify even more spectrum, so that we can create the spectrum pipeline for tomorrow.

So, to be true to form, I appreciate that the Chairman's team has committed to mine to follow up this item with another in the first half of next year. I expect that order would deal with the remaining bands that were in the 2016 notice, such as 32, 42, and 50 GHz, and an accompanying notice should, at a minimum, tee up 26 GHz, a band that is highly popular for 5G internationally. Further, the Commission must give further thought to the remaining LMDS channels. All of these bands, along with our efforts underway in the mid-band spectrum proceeding, provide a good foundation for future wireless technologies.

Additionally, releasing more spectrum into the marketplace will ensure that all interested parties have an opportunity to access spectrum resources. Having an adequate supply of spectrum, along with stringent, yet reasonable, construction requirements or renewal standards going forward will ensure that spectrum is used efficiently (and not warehoused) and that this sector remains competitive. Efforts by the Commission to favor certain entities or engineer spectrum holdings in the past have been unsuccessful. Further, as I stated back in 2016, we are still in the early stages of 5G and are unclear about the full extent

of what services will be offered or how much spectrum is needed to achieve the capacity, speed, and latency goals.

For these reasons, I fully support the decision to not implement any pre-auction spectrum cap on the 24 and 47 GHz bands. The Commission should also eliminate the pre-auction spectrum limit that was set for the 28, 37, and 39 GHz bands in our previous spectrum frontiers proceeding. I would have preferred that we eliminate this cap today, but I am pleased that we propose to eliminate this rule in the further notice.

In this vein, I am not supportive of a case-by-case review of millimeter wave spectrum holdings either post-auction or for secondary market transactions. As we have seen before, these screens have a habit of turning into spectrum caps. Therefore, the Commission should not be seeking comment on implementing a case-by-case review of post-auction millimeter wave holdings. Instead, the Commission should be seeking comment on eliminating the secondary market screen. Unfortunately, merely asking that question was verboten. Do note, I will keep this in mind for future items. Moreover, it should be known that under no circumstance do I intend to vote in favor of denying or conditioning the approval of any auction or transfer application on the basis of this spectrum screen farce.

Additionally, the Commission also must set an auction timeline for these millimeter wave bands, and others. Not only do stakeholders need time to prepare, but we must move expeditiously to get this spectrum into the market. So, I thank the Chairman for incorporating my edit that confirms that the Commission will auction this spectrum as soon as possible, but recognizes that auctions cannot be held until we are able to secure a means for auction participants to submit upfront payments. Private banks are no longer willing to do this, so I am supportive of legislative efforts to permit auction deposits to be held by the U.S. Treasury. I thank Senator Thune and Representatives Guthrie and Matsui for their leadership in helping to get this matter resolved.

Finally, while I have focused on wireless issues, I would also like to acknowledge that today's item also recognizes the need for spectrum for future satellite systems. I also appreciate the efforts to provide more flexibility to satellite providers to site earth stations in rural America. To the extent possible, we should encourage earth stations to be placed in less densely populated areas as opposed to urban cores.

I vote to approve today's item.