

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, WT Docket No. 03-66 (Terminated); Transforming the 2.5 GHz Band, WT Docket No. 18-120*

Today, the Commission initiates another proceeding to ensure that the nation's spectrum is put to its most efficient use. And, there are few bands that are more in need of such a review than the Educational Broadband Service, or EBS, band. What started out in the early 1980s as an opportunity for educational institutions to provide instructional materials, while leasing some unused spectrum,¹ has morphed over time into something quite different – a broadband play for commercial wireless providers. In fact, by permitting educational organizations to lease their excess capacity to commercial wireless providers, of the approximate 2,190 active EBS licenses today, it is estimated that 2,000 of those licenses are leased in most part to commercial providers. While this is not necessarily problematic, we should stop pretending that this issue is about interactive school television channels or other educational purposes.

New approaches to the 2.5 GHz band are also needed because its current licensing paradigm, along with a history of freezes, has led to significant underuse of this spectrum nationwide. Therefore, I applaud the Chairman for bringing this notice forth.

At the same time, I am troubled about the possibility of repeating past spectrum policy mistakes by creating new local priority filing windows for preferred entities. It is one thing to allow long-standing incumbents greater flexibility to put their spectrum to better use or participate in the secondary market, it is quite another to issue new licenses for free or on the cheap, which then – consistent with EBS tradition – could be immediately leased or flipped to commercial providers. Why would we enrich such middlemen? Why would we continue the EBS charade and would doing so even be consistent with the law?

While I would have preferred that we not go down this path, I appreciate the Chairman's willingness to accept edits to inquire about the downsides of these filing windows and to seek broader comment, as requested by me and Commissioner Carr, on new ways to auction and license this band for commercial use. Let's figure out what to do with the incumbents, auction the rest, and put this band in the best position for future success. I look forward to engaging with all stakeholders about how to make this a reality.

¹ *Amendment of Parts 2, 21, 74 and 94 of the Commission's Rules and Regulations in regard to Frequency Allocation to the Instructional Television Fixed Service, the Multipoint Distribution Service, and the Private Operational Fixed Microwave Service, Gen Docket No. 80-112, CC Docket No. 80-116, Report and Order, 94 FCC 2d 1203, 1204 ¶ 4 (1983) (permitting licensees of the Instructional Television Fixed Service, or ITFS, which is the precursor to EBS and was established in 1963, the ability to lease of excess capacity).*