

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *LPTV, TV Translator, and FM Broadcast Station Reimbursement*, MB Docket No. 18-214;
Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions,
GN Docket No. 12-268

In this item, the Commission takes important steps to fulfill its Congressional mandate to adopt rules under the Reimbursement Expansion Act (REA), enacted as part of RAY BAUM's Act of 2018. REA expands the list of entities eligible for reimbursement from the broadcast television incentive auction to include LPTV/translator and FM stations, and provides additional funding for the Reimbursement Fund. As I have stated before, the incentive auction is of utmost importance and all Americans will benefit from putting spectrum to its highest and best use. Fortunately, thanks to further Congressional action, the commitment to hold broadcasters harmless throughout the incentive auction repack process should be a firm reality.

First, I want to thank the Chairman for seeking comment on the Commission's interpretation of how to allocate Fiscal Year 2019 (FY19) funds under REA. While Congress carefully outlined how it intended FY18 monies to be spent, it provided less clarity for FY19. Should these funds be allocated similar to FY18 funds? Should television stations have priority? The answers to these questions will affect how interested parties are reimbursed for relocating during the repacking process, and the Commission should ensure, to the extent possible, that we adopt the appropriate statutory interpretation. Such questions will also give an opportunity for the Congressional authors to weigh in on the matter.

The item also seeks comment on a graduated reimbursement system. While the previous draft tentatively concluded that this was the best approach, we alter that today by clarifying that this is just one potential reimbursement mechanism, and we seek comment on other potential ways to reimburse radio. The graduated reimbursement system assumes that time equals money. However, parties engaged on the matter dispute this assumption, emphasizing that repack costs to a radio station will not necessarily correlate with the amount of time they are off the air. Thus, I expect commenters to suggest the best mechanism to allocate funding, in the case that the \$50 million – which stations have consistently advocated is the amount needed – will not cover all the costs to radio stations seeking reimbursement.

Turning to consumer education and outreach, I think it is important to ensure that while we have been allocated \$50 million to fund our education efforts, we must be responsible stewards of this funding. Certainly, the Commission has a role to play in hosting a dedicated consumer service call center and providing technical support and assistance on rescanning. This targeted action is important for consumers. What we should not be doing is duplicating efforts undertaken by broadcasters or other stakeholders, or take on initiatives outside of our expertise, such as producing advertising spots. I appreciate the additional language in today's item that emphasizes that the Commission intends to establish strong measures to coordinate closely with industry stakeholders and protect against unnecessary or duplicative spending. We also should take into account any lessons already learned. For example, as we complete Phase 0, were consumers confused? If so, why? If not, why not? Importantly, the item now reiterates the statute by stating that any funding not spent on consumer education will be returned to the U.S Treasury.

Finally, I support edits in this item that will mitigate the use of delegated authority, as well as remove the tentative conclusion that third parties who made funding arrangements with LPTVs prior to the passage of REA are ineligible for funding. Prior to REA, it was very uncertain whether LPTVs would be reimbursed at all – as Congress considered and rejected the notion in 2012. Third parties who stepped up to fill this funding gap can now make the case to the Commission as to whether they should be rewarded for this foresight.

I approve of today's rulemaking to begin implementing REA and look forward to reviewing the comments.