

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Promoting Investment in the 3550-3700 MHz Band*, GN Docket No. 17-258

The U.S. has a wireless marketplace that other countries envy and try to emulate, in part because of our commitment to free market principles and practices. In sum, the Commission makes spectrum available under flexible use policies, assigns through multi-round auctions, and encourages an active secondary market, ultimately facilitating a competitive marketplace and placing the nation's spectrum into the hands of those who maximize its use for Americans.

These are the very same policies that are the foundation of today's order. By modifying the licensed portion of the 3.5 GHz, or CBRS, band we ensure that there will be maximum investment, continued development, and successful deployment of this spectrum. We also open this mid-band spectrum for 5G technologies, which have developed since the original proceeding and have been targeted for global harmonization, wide-area networks, and 5G roaming.

This change in circumstances is a key reason we must act as outlined in this item. Specifically, it was clear during this review that the past Administration's rules would not support large-scale deployments, such as mobile or 5G networks. Imagine being at the dawn of the Uber age and having the government declare that only Toyota Priuses may Ubers. As many opponents to this order have admitted, the rules in place favored small-scale, fixed networks, by making it unattractive for any other type of deployment. Basically, the rules were designed so that a select group could get licenses on the cheap. Some of these entities assert, to this day, that these are "their licenses." They seem to be forgetting that spectrum belongs to the people and that it is the Commission's obligation to manage it in the public interest for *all* Americans.

We right the ship today by fixing the CBRS band so that there are opportunities for all, regardless of whether an entity is interested in fixed or mobile, 5G, or another technology. Among other changes, we modify the rules to ensure Priority Access Licenses, or PALs, will be available in all markets and change the term to ten years with an expectation for renewal. These will allow winning bidders to freely invest in networks, knowing that if they follow our rules and meet performance requirements, their investments will not be stranded.

The contentious debate, however, centered on the appropriate geographic license size, ranging from the 74,000 census tracts set by the prior Commission to 416 partial economic areas, with other options in between. After almost a year of conversations and considerable movement by some parties, which I greatly appreciate, it was clear that a consensus agreement could not be reached among all parties, so the Commission had to make the appropriate and justified policy decisions. And we are doing just that by changing the geographic license size to counties, which amount to approximately 3,200 market areas nationwide. Contrary to what some are asserting, we did not just throw our hands up in the air, throw a dart at a dartboard, succumb to a "political solution," or draw straws, because we couldn't figure out what to do. Nor is this an effort to give licenses to the nationwide providers or turn this into a 5G-only band. As I like to say, such claims are pure gibberish.

Counties are appropriate because they are big enough that larger mobile providers will be able to successfully aggregate PALs, especially with an option for package bidding, but small enough that they are attractive to small and rural wireless companies, cable operators, and new entrants. I thank the nationwide providers, small and rural mobile operators, the cable industry, and wireline carriers for supporting these efforts and being constructive partners in this endeavor.

This geographic license size will also alleviate the harmful interference issues that arise from all the borders created by 74,000 census tracts, especially in metropolitan areas where the use of a PAL in one census tract could preclude the use of the same spectrum in adjacent areas; require fewer coordination agreements between neighbors; and allow greater and more cost-efficient deployments. Rural providers have also said that census tracts are too small and will not let them take advantage of the CBRS band's propagation characteristics to bring broadband Internet to all those seeking it.

Further, distributing licenses at the county-level will expedite the auction and bring spectrum that, by some accounts, was needed yesterday, into the marketplace as soon as possible. It became apparent, after meeting with our auction team, that we could not conduct a timely auction for over 74,000 markets or more than 500,000 licenses. I was told that, instead, the plan was a single, sealed bid auction. I cannot support abandoning our successful multi-round auction approach that provides flexibility, price discovery, and ensures licenses go to their highest value use under any circumstances, rather than into the hands of a select few. I am bewildered that some suggest that returning to a framework that imposes command-and-control style spectrum policy using an old-fashioned sealed-bid auction is somehow an innovative, new idea that will ensure our continued leadership in wireless. In fact, it seems like a colossal step backwards.

That said, I recognize and fully appreciate all the efforts of interested parties in getting this complex "experiment" up and running. I am disappointed, however, by some parties' arguments that their investments will be stranded due to their inability to access to this spectrum. Those claims are simply false. First, no one is ever guaranteed to win licenses at auction, so it rings hollow that these investments were solely contingent on their ability to win PALs. Regardless, I hope the skeptics of these new rules will still participate in the auction, because outcomes are unpredictable, and, despite their protests, they do not know if they will be outbid. No one would have guessed that the largest two mobile providers would basically take a pass on the 600 MHz auction. Additionally, we are providing bidding credits, to those qualified, to help offset costs. Second, these investments were made in large part to access the 80 MHz of GAA, or unlicensed-like, spectrum that will remain available. Nothing we do today changes the availability of this spectrum. Ironically, I put the idea on the table of converting some GAA spectrum to licenses, even trying to find a way to offer them by census tract in a much later auction, but that was a non-starter, as these entities understandably wanted GAA. Further, with our use-or-share policies, if PAL spectrum is not being used, it can be accessed by GAA users.

Lastly, today's item also expands secondary market options. Some argue that the secondary market may not be as effective as we would hope. I would welcome a full discussion of how the Commission can incentivize secondary markets. If we can provide incentives to further invigorate the marketplace, we should look into doing so.

Similarly, proponents have stated that the performance requirements in this item are insufficient. These metrics were reasonably formulated, taking into account that this spectrum will be offered at the county-level, which is the smallest area the Commission has offered, at a lower power than our normal licenses, and that providers will have to protect federal users. I am a strong proponent of stringent buildout requirements and, in fact, have asked parties in various proceedings about ways we can update our metrics for today's technologies. I am always met with silence. I would be supportive of efforts to modernize and strengthen our construction benchmarks for auctions going forward. Both issues, however, should be looked at holistically and are broader than the current 3.5 GHz proceeding.

In conclusion, I would like to thank the Chairman for providing me the opportunity to lead this effort. I would also like to take this opportunity to acknowledge the staff for their efforts throughout this process and who worked long hours to get this order done. Your hard work does not go unnoticed. Thank you.