

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL
APPROVING IN PART, DISSENTING IN PART**

Re: *Auction of Flexible-Use Service Licenses in the 3.7–3.98 GHz Band for Next-Generation Wireless Services; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 107; Bidding in Auction 107 Scheduled to Begin December 8, 2020; AU Docket No. 20-25.*

Today's Public Notice adopts procedures for the auction of 280 megahertz of spectrum in the C-Band. If all goes as planned, it may prove to be one of the more consequential auctions in this agency's history. That's because this auction will make available airwaves that are uniquely suited for next-generation 5G service at an absolutely critical juncture for our nation's wireless leadership. It is no secret that the United States is woefully behind other countries when it comes to making mid-band spectrum available for 5G. Other nations have moved these airwaves to market much faster, while during the last few years we auctioned band after band of only millimeter wave. Other nations have their 5G plans in order and are poised to free up to five times more licensed mid-band spectrum than the U.S. by the end of the year, while we still wait for a national spectrum strategy that is more than a year overdue.

Nonetheless, this Public Notice is a step toward closing that gap. It reflects the usual high-quality work of our auction experts. The procedural rules we adopt today set up the nitty-gritty of our auction—details like timelines and bidding procedures, compliance with antitrust laws, bidding credits for small businesses and rural service providers, and more. These procedural rules mirror what has been successful in the past. I also am pleased that we are adjusting the assignment phase of the auction to better ensure that auction winners receive contiguous spectrum blocks, which will be important to providing robust 5G service. So that's the good.

But there are reasons this auction will be consequential that are not so good, too. That's because with this effort for the first time the value of spectrum assigned in a Federal Communications Commission auction will not be determined by an efficient and effective market. Instead, bids in this auction will be distorted by a nearly \$10 billion payment to incumbent satellite operators that was negotiated outside the light of day. Whatever hazy deal this agency cut with existing licensees is hard to square with our clear statutory duty to deposit auction proceeds in the United States Treasury. Moreover, this mandatory payment set by the agency falls outside of the traditional *Emerging Technologies Framework*, which permits voluntary, market-based transactions to repurpose spectrum for new uses. That means the public foots this \$10 billion bill without the traditional tools of accountability that our auctions have relied on in the past.

We should have worked with Congress on a more transparent path. By doing so, we could have cleared up these ambiguities. Not just for this auction but for spectrum efforts in the future. Because we would benefit from a legislative overhaul of our system for incentivizing the return of airwaves and the repurposing of them for a future where we can lead in 5G. In fact, I believe our experience with C-band and mid-band more generally proves we need more innovative tools to help this process along—just like incentive auctions have helped with freeing low- and high-band spectrum.

Moreover, by proceeding on our own, we also missed a big opportunity. Because we acted unilaterally, we denied the legislative branch the ability to take the funds from the auction of these public airwaves and put them to broader public purpose. Working with Congress we could have used the billions of dollars in revenues this auction is expected to raise to do the very infrastructure projects this country so desperately needs. We could have funded the nation's transition to next-generation 911, which would benefit public safety in every state. We could have started a new rural broadband initiative. Or we could have used revenues to seed a Homework Gap Trust Fund to help our nation's students stuck in the

digital divide and locked out of the virtual classroom during this pandemic. It is regrettable we did not. Because these things are important.

For these reasons, I approve the work of our staff to implement these auction rules, but dissent because I continue to believe how we got here is misguided.