

STATEMENT OF
COMMISSIONER MICHAEL J. COPPS, CONCURRING

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 (Third Memorandum Opinion and Order and Second Report and Order, WT Docket No. 03-66).

I have long stated my belief that the EBS band must be used, above all else, to benefit educators. I supported our 2004 *Order* reorganizing the EBS and BRS bands because I believed – as did the great majority of the EBS community – that it would allow educational licensees to get more out of this valuable spectrum. In particular, I believed – and I continue to believe – that access to capacity on low-power, cellularized broadband wireless networks would be a great boon to the universities, high schools, elementary schools, and a wide array of non-profit educational organizations that currently hold EBS licensees. I accepted the argument that educational licensees needed freedom to partner with industry in order to build out the network infrastructure necessary to provide wireless broadband access using this spectrum.

Now we are asked by industry, as well as a portion of the EBS community, to go farther down that road. It is no longer enough, they say, for educational licensees to lease up to 95% of their capacity to commercial users for up to 15 years. Instead, educational licensees seek authority to lease up to 95% of their capacity for up to 30 years and with only a limited and poorly-defined opportunity to revisit the terms of the lease at 15, 20, and 25 years.

The net result of these new ground rules, we are told, will be to enhance the value that educators draw from the EBS band. I certainly hope they are right. I have no doubt that the educational licensees have given this matter careful thought and are genuinely seeking to protect the interests of their present and future students – both rural and urban, young and old. These are precisely the interests that led to the creation of the predecessor to the EBS program over four decades ago.

But I have to tell you that I worry whether we may be going too far today. I am not so certain that it is really wise for any educational institution to lock up, even partially, use of its valuable EBS license for the next 30 years. In making our judgment, it is sobering to remember that 30 years ago the best and the brightest of our engineers believed that the optimal use of this spectrum was for Multipoint Distribution Systems meant to compete with cable video providers. Satellite broadcasting was not even on the radar screen – let alone the low-power, cellularized wireless broadband access technologies that we seek to encourage today.

For my part, I would strongly have preferred to accept the suggestion of one commenter to give EBS licensees the right to reclaim up to 5% of the capacity of their

spectrum every year up to a limit of 25% percent. Indeed, I would have supported an even higher limit. That strikes me as a far better way to ensure that the EBS spectrum will ultimately benefit those it is meant to benefit. But because that choice is not before me, I concur, with some hesitation, in today's item.

Finally, I also want to emphasize this Commission's ongoing responsibility to monitor progress – or lack thereof – in the EBS band. We should be enormously proud of the varied and creative uses to which educational licensees have put this band to date:

- Stanford University's Instructional Television Network transmits 350 hours per week of engineering and scientific educational programming to the university's own students as well as to over 6,000 adult students working in the Bay Area.
- South Carolina's Educational Television Network provides distance learning resources to nearly half a million K-12 students.
- The North American Catholic Educational Programming Foundation provides reading and phonics instruction to state and county correctional facilities across the country to remedy high inmate illiteracy rates.
- The Chicago Instructional Technology Foundation delivers video service to area schools as well as the Chicago Children's Memorial Hospital and five community churches.

These are just a few of literally many thousands of valuable contributions that have been made by innovative use of this spectrum. I am confident that as technology marches forward, tomorrow's educators will be able to conceive new and exciting uses for the EBS band. But this band will remain available to educators only if we keep a watchful eye on how it is actually being used. So let no one think the Commission is abdicating its ongoing responsibilities to protect the people's spectrum and the public interest with the changes we make today. I intend to track how these changes evolve, how the spectrum is utilized, how reviews are conducted, and how the integrity of the program is perpetuated in the months and years ahead. If we do our job, we can ensure that the educational promise of this spectrum has a future even brighter than its past.