

**STATEMENT OF
COMMISSIONER ROBERT M. McDOWELL
APPROVING IN PART AND CONCURRING IN PART**

Re: Applications of Cellco Partnership d/b/a Verizon Wireless and SpectrumCo LLC and Cox TMI, LLC For Consent To Assign AWS-1 Licenses, WT Docket No. 12-4; Applications of Verizon Wireless and Leap for Consent To Exchange Lower 700 MHz, AWS-1, and PCS Licenses, ULS File Nos. 0004942973, 0004942992, 0004952444, 0004949596, and 0004949598; and Applications of T-Mobile License LLC and Cellco Partnership d/b/a Verizon Wireless for Consent to Assign Licenses, WT Docket 12-175

The Verizon Wireless-SpectrumCo transaction is procompetitive and will benefit American consumers. Our action today will pave the way for Verizon Wireless to bring 20 megahertz of fallow spectrum into the mobile broadband marketplace quickly. The arrangement between the companies will also introduce convenient new service offerings and spur innovation due to their ability to jointly develop new technologies, products and services. I am pleased to vote to approve today's order.

On the other hand, there are two issues to which I must concur. First, I disagree with the data roaming obligation undertaken by Verizon Wireless. As an initial matter, I cast a dissenting vote when the mandatory data roaming rule was adopted in 2010, citing primarily the Commission's lack of authority over broadband information services such as data roaming. Moreover, the record in the instant proceeding neither cites nor discusses any concrete examples where Verizon Wireless has failed to offer data roaming. On the other hand, today's order does nothing to disturb the appeal of the 2010 data roaming order, which is currently pending with the D.C. Circuit. For these reasons, I concur to the mandatory data roaming commitment.

Second, I cannot support the assertion that the Commission has jurisdiction over the commercial agreements at issue in this transaction. In this case, review of these documents should have fallen exclusively to the Department of Justice because the tasks pertain solely to antitrust matters. A simple reference to, rather than an exhaustive discussion of, the Department of Justice's conclusions would be more appropriate in the Commission's order. On the other hand, the parties explained in our record and publicly that the spectrum transfer would not go forward without the accompanying commercial agreements, thus linking the Commission's and the DOJ's joint role. Given the circumstances, I concur with the Commission's role in reviewing the commercial transactions.

In that same vein, I have concerns regarding possible attempts to revisit these agreements in the future. Any potential future proceedings related to such agreements may result in unintended consequences, market uncertainty and actions that exceed the Commission's authority.

Finally, I thank the Chairman for his willingness to incorporate edits. And many thanks to the dedicated staff for their hard work on this matter.