

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY
APPROVING IN PART AND DISSENTING IN PART**

Re: Amendment of Parts 0, 1, 2, and 15 of the Commission's Rules regarding Authorization of Radiofrequency Equipment; Amendment of Part 68 regarding Approval of Terminal Equipment by Telecommunications Certification Bodies, ET Docket No. 13-44, RM-11652

Although I vote to approve the vast majority of this order, I cannot support the delegation of authority to the Office of Engineering and Technology (OET) to modify certain rules to incorporate updated industry standards.¹ Pursuant to this delegation, the bureau will be permitted to conduct its own rulemaking proceeding to enact rules that will substantively affect Commission regulatees. In fact, the Commission will only vote on these updates if there is convincing evidence that the changes to the standard would raise "major compliance issues." I have utmost confidence in OET, but I cannot support such a delegation or the precedent it sets.

The order states that, by allowing the bureau to conduct its own proceeding, it will allow the Commission "to better keep pace with industry standards" than if the Commission had to conduct a full rulemaking. This argument just does not hold up to analysis or reason. Either way, the proceeding will have a notice, comment period, and involve drafting time. If the process to bring an item to the floor is that burdensome and time consuming, that is clearly an issue for the Chairman's FCC reform project, but not a rationale for depriving Commissioners of the right to vote. As we are led to believe that these updates are not controversial, the Commission should be able to vote expeditiously. Generally, I always vote as quickly as possible. In fact, if it weren't for this questionable delegation, I would have voted this item a while ago.

While I recognize that some may assert that similar delegations have been granted in the past, that doesn't mean that it is correct or good process. Others may argue that this item will just result in a bureau updating standards, but the questionable delegation of Commission authority to bureaus is becoming a norm. In fact, a declaratory ruling clarifying controversial data roaming rules and the wireless competition report, which is normally voted on by the Commission, were just released on delegated authority.

I cannot support language that allows a bureau to determine the bounds of its own delegated authority based on a subjective and vague standard, such as if the action does not "raise major compliance issues." Under this item, OET gets to decide what is meant by "major," and effectively acts as gatekeeper to what the Commissioners get to consider. Moreover, this language could easily serve as a model for future delegations. For example, could a future television standard, ATSC 3.0, be considered major? Or is that just updating a previous standard?

For these reasons, I must dissent to the portion of the order delegating authority to OET to update industry standards referenced in Commission rules.

¹ This delegation affects Part 2, 5, 15, and 18 rules.