

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

Re: Promoting Spectrum Access for Wireless Microphone Operations, GN Docket No. 14-166, Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268, Report and Order.

Generally, I appreciate that today's order seeks to adopt changes to our technical rules to allow wireless microphones to be used to the greatest extent possible in the remaining TV bands, and provides new or increased opportunities in other frequencies. It attempts to make the best of a difficult situation resulting from the upcoming incentive auction, envisioned and created by Congress. Everyone involved in this process was aware that it would cause lasting disruptions for many communications providers and manufactures. There are few cases where this is more evident than the wireless microphone community.

Having spent considerable time on this issue and after visiting many venues with wireless microphone systems, I understand the value that they have in many instances. From Broadway and the Super Bowl to your local Shakespeare Theater and place of worship, wireless microphones provide seamless service to improve performance quality and the audience experience. They are also used by local broadcasters in their newsgathering activities to inform their communities. At the same time, the wireless microphone community must adapt, improve technology and migrate to other bands.

On that note, I think it would be unwise for wireless mics to migrate into spectrum bands that could be reallocated for commercial wireless use in the future. For instance, this item contemplates additional wireless mic operations in the 1.4 GHz Band. This spectrum, however, is being considered by the wireless industry and the international community for future licensed wireless services. While we do not know if such an allocation will happen, we do know that the demand for licensed spectrum is high and it is going to have to come from somewhere. In fact, CTIA has found that 350 megahertz of spectrum needs to be allocated for licensed use by 2019 to meet consumer demand for mobile broadband.¹ And this does not take into account the spectrum that will be needed to meet the demand that is envisioned past 2019.² For this reason, I am disappointed that my requested edit to highlight the potential for commercial wireless allocations in the 1.4 GHz Band was rejected.

I also have serious concerns about the mandatory "written" disclosures that are required in this item and, therefore, I must dissent in part. Specifically, the Commission delegates to staff the authority to draft specific language to inform consumers that operation of wireless mics in the 600 MHz Band will be restricted to the guard bands and duplex gap going forward. First, industry should be allowed to create disclosures that they feel will best inform their consumers. While it may be acceptable to suggest the type of information that should be included, providing the language is unnecessary and perhaps counterproductive. Second, I cannot agree to delegate this authority to staff. The Commission should review any and all burdens that we place on industry. Third, this item requires that this disclosure must

¹ Coleman Bazelon & Giulia McHenry, *Substantial Licensed Spectrum Deficit (2015-2019): Updating the FCC's Mobile Data Demand Projections* (June 23, 2015), http://www.ctia.org/docs/default-source/default-document-library/bazelon_mchenry_spectrum-deficit_2015-06-23.pdf; Thomas K. Sawanobori & Dr. Robert Roche, *From Proposal to Deployment: The History of Spectrum Allocation Timelines to Re-Allocate the Additional 350 MHz of Licensed Spectrum Needed by 2019, Policymakers Must Act Now*, <http://www.ctia.org/docs/default-source/default-document-library/072015-spectrum-timelines-white-paper.pdf>.

² Bazelon & McHenry, *supra* note 1, at 19.

be displayed on websites and at the point-of-sale by manufacturers, “dealers, distributors, retailers, and anyone else selling or leasing the devices.” I cannot agree to such retail mandates. While we have jurisdiction over licensees and equipment manufacturers, our authority does have limits as it applies to the retail market.

The Commission also “expects” that manufacturers will conduct burdensome consumer outreach so that wireless mics users are informed about the Commission’s decisions. In reading the exact text of the document, I take these outreach methods as suggestions, not enforceable requirements. Accordingly, I will not be supportive of any actions by the Enforcement Bureau to penalize manufacturers who were unable to make contact with past customers. Additionally, we should have deleted language in the draft that encourages manufacturers to offer rebate and trade-in programs for 600 MHz Band wireless mics. If manufacturers believe that such programs are in their best interest, they will provide such enticements to maintain their consumer base. It is not the Commission’s role to promote or press such activities on industry.