

**CONCURRING STATEMENT OF
COMMISSIONER AJIT PAI**

Re: AT&T Inc., Parent Company of New Cingular Wireless PCS, LLC and AT&T Mobility Puerto Rico, Inc., File No. EB-SED-13-00008891

In this Notice of Apparent Liability for Forfeiture (NAL), the Commission proposes to fine AT&T \$640,000 for alleged violations related to the operation of 34 fixed, point-to-point microwave stations. It appears that the company operated at least some of those stations at variance from their authorizations, so it is certainly appropriate to move forward with an NAL. Nonetheless, there's a troubling lack of transparency in today's item. As a result, I am only voting to concur.

Some of the item's omissions are glaring. For example, the NAL itself does not identify the 34 stations at issue. Nor does it describe how those facilities allegedly failed to comply with our rules. These are pretty basic points that we should be able to include when we're proposing to fine a company over a half a million dollars after a multi-year investigation.

The missing information is also critical to determining the appropriate base forfeiture. Indeed, depending on the ways in which the stations failed to comply with our rules, the base forfeitures mentioned in the item might actually be too low.

Defining the alleged conduct at issue is also key to determining whether any upward or downward adjustments are appropriate. The NAL proposes to *quintuple* the base forfeiture amount, citing, among other things, the "egregiousness" of the conduct. But it's difficult to assess how egregious it was because critical information about the company's conduct remains unknown. And it's difficult to square that determination with the fact that the licensee voluntarily brought these issues to the FCC's attention in the course of bringing licenses it had acquired from third parties into its license management and compliance system. Therefore, I cannot conclude at this point that such a large upward adjustment is warranted.

Given the item's omissions, my office reached out to Commission staff over two weeks ago. We asked repeatedly thereafter to see the missing data. Thankfully, my office was given some of this information yesterday. While it shows that the FCC still doesn't know the ways in which all 34 stations allegedly failed to comply with our rules, I am comfortable that there is an adequate factual basis for us to move forward with an NAL and give the licensee an opportunity to respond to the allegations. I look forward to working with my colleagues as the record develops.