

**STATEMENT OF COMMISSIONER MIGNON L. CLYBURN
APPROVING IN PART; DISSSENTING IN PART**

Re: *Policies Regarding Mobile Spectrum Holdings*, WT Docket No. 12-269; *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268.

As I mentioned when we adopted the Mobile Spectrum Holdings Order last year, there is no question that the Commission has statutory authority to allocate spectrum licenses in a manner that promotes competition, for the Communications Act instructs the FCC to “avoid[] excessive concentration of licenses,” and to “disseminate[] licenses among a wide variety of applicants, including small businesses.” The plain language of the Middle Class Tax Relief and Job Creation Act reaffirms the Commission’s authority to: “adopt rules of general applicability, including rules, concerning spectrum aggregation, that promote competition.” Such a spectrum allocation rule is also consistent with our precedent. Since the 1980s, the Commission has often adopted policies designed to prevent undue concentration of spectrum licenses necessary to provide those services, so I am pleased to commend Chairman Wheeler for reaffirming that the forward auction will have reserve spectrum for those entities who hold less than 45 megahertz of below 1 gigahertz spectrum in local areas.

However, I am disappointed that we did not circulate an Order that adopts the Public Knowledge proposal which asked the Commission to change the amount of reserve spectrum from 30 to 40 MHz when we recover 114 or more MHz from broadcasters. In my opinion, such a change would have greatly incentivized competitive wireless carriers, particularly those who are reserve eligible in the vast majority of the markets, to bid more in the forward auction. It also would have created greater certainty that we could recover more spectrum from broadcasters. Increasing the amount of spectrum in the reserve in this manner would have also been consistent with the market based principles the Commission has adopted for the incentive auction. This, I feel, would have been a huge victory for mobile wireless consumers, because other wireless carriers would have the spectrum they need to compete against the two nationwide carriers who, together, hold more than 73 percent of spectrum below 1 GHz.

It would have also been important for unlicensed advocates and the wireless microphone community who are currently very opposed to placing broadcast TV stations in the duplex gap. Our proposed band plan at 114 MHz would mean an extra 10 MHz of guard bands, which unlicensed services and the wireless community could use. Such a guard band is not possible in the scenario when we recover only 84 MHz from broadcasters. This, I feel, was a missed opportunity. For these reasons, I respectfully dissent from this aspect of the Order.

The Wireless Bureau has worked extremely hard throughout this proceeding and for that and more, thank you.