

**STATEMENT OF
CHAIRMAN TOM WHEELER**

Re: *Updating Part 1 Competitive Bidding Rules*, WT Docket No. 14-170, *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, *Petition of DIRECTV Group, Inc. and EchoStar LLC for Expedited Rulemaking to Amend Section 1.2105(a)(2)(xi) and 1.2106(a) of the Commission's Rules and/or for Interim Conditional Waiver*, RM-11395, *Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures*, WT Docket No. 05-211.

Congress instructed the FCC to reduce the barriers faced by small businesses, including women- and minority-owned businesses and rural service providers seeking meaningful participation in the provision of spectrum-based services. Today's Order revamps our outdated spectrum auction bidding policies to help these entities better compete for a position in today's wireless marketplace. At the same time, our reforms will enhance the integrity of the FCC's auctions and ensure large corporations can't game the system.

The Commission has had such so-called "Designated Entity" rules in place since the 1990s. However, the Commission has not looked at updating the rules since 2006. The amazing changes in the wireless marketplace since then required a review of our policies, and that review made plain the rules needed to be reformed. In 2006, for instance, the top four national CMRS providers served 82 percent of the market; today the top four national carriers serve 98 percent of mobile devices. When the rules were first put in place in the mid-1990s it was possible for individual entrepreneurs to start their own company and compete in the market.

Today, however, the hegemony of the wireless marketplace makes it virtually impossible for an independent entrepreneur to take on such concentration. Considering the rapid changes in the marketplace, the importance of consumer choice, and the significant challenges new entrants face in starting from scratch to build a new wireless service provider, now is the time to update our auction policies and provide smaller businesses— including carriers serving rural areas – a better on-ramp into the wireless industry.

Today's item provides greater flexibility so that qualified small businesses can find opportunity in the wireless industry. This includes, for example, eliminating the requirement that the winning bidder must build a unique network; under the new rules the winner may choose to build or lease their capacity. The rules also create a new rural provider bidding credit that will incentivize participation in future auctions by rural service providers in the communities they serve. We also increase the revenue threshold to qualify as a small business to account for inflation.

In addition to expanding opportunities for small businesses, the modernized rules will increase transparency and efficiency to prevent potential gaming or abuse, as well as protect the integrity of the Commission's auction process. In particular, we establish the first-ever cap on the total value of bidding credits, minimizing an incentive for major corporations to try to take advantage of the program by finding a small business to act on their behalf. The new rules also take several steps to make sure that small businesses receiving bidding credits are exercising independent decision-making authority. For example, we clarify the types of agreements – including management and operating agreements – that independently or together create the impression that a Designated Entity is not "calling the shots" in order to prevent ineligible entities from obtaining bidding credits. We also limit the amount of spectrum that a Designated Entity may lease to its non-controlling investors during the five-year unjust enrichment period.

The rules also make it clear that joint bidding agreements that involve a shared strategy for bidding at auction between Designated Entities and large nationwide companies will not be tolerated. Because this restriction is based on encouraging competition both in the market and in the auction, non-nationwide providers would still be able to participate in certain joint bidding ventures with other non-nationwide providers.

Few areas of our economy hold more promise for driving innovation and economic growth than the wireless sector. We cannot overlook the opportunity this growth presents for American small businesses. Today's reforms will increase competitive access to spectrum and thus create economic opportunity for small and rural businesses.

Thank you to the Wireless Bureau, the Office of General Counsel and the Auctions Division staff for their work on this item.