

**STATEMENT OF
COMMISSIONER MICHAEL P. O'RIELLY
APPROVING IN PART AND CONCURRING IN PART**

Re: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals, CG Docket No. 10-210.

The item before us helps fulfill our statutory obligation under the CVAA. Equally important is that the resulting new permanent program will continue our efforts to bring communications technology to those Americans who are deaf-blind.

It is nearly impossible to read the text of the Report and Order and not think of the daily challenges these individuals can face in our supersonic-paced society. Our everyday errands and normal routines, in some instances, can become monumental tasks for deaf-blind individuals. Thankfully, we have the unique opportunity to dramatically improve their ability to communicate with and learn from the amazing world outside, opening the door to new possibilities. A glorious feature of modern technology is that it expands the universe of contributions that all people can make to society.

That is not to suggest that I don't have difficulties with certain directions and decisions contained within the item. While it is refreshing to see the Commission move away from the pilot project approach, which was statutorily defunct, and to a permanent program as required by law, we had the chance to install necessary safeguards and improvements to the program's functionality and reach but, in some cases, chose not to make them.

I am pleased that some of the suggestions I had made at the Notice stage on oversight and accountability have made it in to the final rules. These include establishing performance goals and measures, requiring that the state programs have administrative and financial management experience, and adding consumer attestations for compliance with Commission rules. They stem from the Commission's experience with the federal universal service programs, as well as recommendations from the U.S. Government Accountability Office.

However, the biggest disappointment with the current text has to be the diversion of funds to non-equipment functions. These are things that aren't contemplated by the statute, despite the weak arguments made to the contrary, and such activities take valuable funds away from the core purpose of the program. These would fund things such as training the trainers, out of state travel expenses, and high administrative costs. We are also going to pay for program outreach and awareness, admittedly less than before, but the program is already at 90 percent of overall budget. When you add up all of these other costs, somewhere between 20 and 25 percent of the total program funding will not be going to deaf-blind equipment, our central statutory purpose.

At the same time, management of the program, especially given the heavy delegation contained within, means that a combination of state program administrators and staff in the Consumer and Governmental Affairs Bureau will be making all of the future programmatic decisions. We are effectively putting the program in their hands and hoping for the best, as the Commissioners will have little role except if or when problems develop. This approach hasn't worked for other Commission subsidy programs, like E-Rate and Lifeline, and applying it here despite our experiences with those programs is more than troubling. I certainly have to hope this will be the rare exception to the bumbling that has occurred elsewhere.

In addition, I asked that the program install a mechanism to deal with the issue of oversubscription, to the extent it occurs in the future. Since the program is already at 90 percent of budget, this isn't some impossible or far flung possibility. Moreover, the Commission was able to do it for the Rural Health Care Program. Let's face it, if we wait until the budget is exhausted, we are likely to

make worse decisions scrambling around than if we install a default process now. Sadly, this approach did not make the cut.

The Commission also rejected my simple request to install a natural sunset to the program in order to force the Commission to reevaluate the program – not necessarily end it – in ten years. Such a simple mechanism could have gone a long way towards forcing the proper examination, by the full Commission, of any existing problems.

Despite the areas where my thoughts of bringing greater accountability and focus were rejected, the overall effort is generally reasonable. My hope is that the new program helps fulfill the communications needs of those deaf-blind individuals, who clearly have more spirit, more perseverance, more focus, more grace and more determination than I can ever hope to attain in life. I approve in part and concur in part.