

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Commission Seeks Public Comment in 2016 Biennial Review of Telecommunication Regulations*,
CG Docket No. 16-124, EB Docket No. 16-120, IB Docket No. 16-131, ET Docket No. 16-127,
PS Docket No. 16-128, WT Docket No. 16-138, WC Docket No. 16-132

I am generally pleased to support the Commission's initiation of its requirements under Section 11 of the Communications Act of 1934 to conduct a review of all regulations imposed on telecommunications providers. It is especially important to get this 2016 process underway because the Commission has no excuse why it skipped the 2014 review, despite the statutory provision that it be done every two years. Depressing as it may be, there seems to be no penalty for the Commission just ignoring statutory deadlines on its own whim.

Designed and included as part of the Telecommunications Act of 1996, the biennial review was intended to serve as a check against outdated Commission burdens and obligations on telecommunications providers that are no longer necessary because of "meaningful economic competition between providers for such services."¹ Under the law, the Commission is required to repeal or modify those that are no longer necessary in the public interest. Although some within the Commission seem to ignore reality, Commission requirements carry real consequences, even beyond compliance costs, as they can drive business decisions and the markets that providers enter, ignore or exit.

Additionally, the timeframes set by this Public Notice are beyond disappointing because they result in such a long time period from initiation to actual conclusion. With comments and reply comments, four months for staff review and recommendations, and then five more months before issuing NPRMs, it would take heavenly involvement to see the 2016 review end before 2017. In fact, I don't see how this doesn't stretch late into 2018, which is when the next review is supposed to be completed. The Commission has finished entire rulemakings in as little as six months, but here it will take twelve months just to issue the NPRMs. That is not faithfully honoring the provisions required by the law and does a disservice to those telecommunications providers, and their paying consumers, forced to comply with outdated Commission requirements much longer than necessary.

To expedite this process, I suggested that we shorten the initial staff review to two months from four, especially since staff will still have nearly five months on top of that to produce the NPRMs. Contrast that with the privacy proceeding where the Commission just committed to issue an NPRM in four months. My edit was summarily rejected. Even a compromise of three months was turned down. Instead, I was told that staff needed every bit of the four months in order to review the record. Given the cursory reviews and rather uninspiring past Section 11 efforts, this reason seemed particularly ridiculous, especially since we have wasted four months since the PN was circulated to Commissioners with no action. In essence, it seems that staff needs four months to conduct the review but somehow was unable to use *any* of the time wasted as the barebones Public Notice sat on the Commission's Eighth Floor awaiting action.

With this delayed timeline, everyone – Commission leadership to the bureau attorneys assigned to participate – should be on notice that I expect extensive recommendations culminating in a forward-looking NPRM. Every rock should be turned over and every rule should be thoroughly reviewed to generate the best Section 11 NPRM ever imagined. With hundreds of applicable pages in the Code of Federal Regulations, there is much material to review and likely a good portion that can be eliminated

¹ 47 U.S.C. § 161(a)(2)

given the vast changes in the communications marketplace since the 2012 review. We owe the American people, and their duly elected representatives, nothing less.