STATEMENT OF
CHAIRMAN TOM WHEELER

Re: *Amendment of the Commission's Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, *Order on Reconsideration and Second Report and Order*, GN Docket No. 12-354

A year ago, the Commission created a new Citizens Broadband Radio Service in the 3.5 GHz band – a significant step forward in spectrum policy. This new service leverages innovative new sharing rules and technologies to create a 150 megahertz band of contiguous spectrum to help meet the Nation's wireless broadband needs, including 100 megahertz previously unavailable for commercial use.

The 3.5 GHz band is an "Innovation Band," that provides an opportunity to smartly explore new ideas and new approaches to difficult policy and technical problems. It is a band in which, without these innovative solutions, the spectrum would not become widely available to the majority of the population.

The government is frequently criticized for thinking too narrowly and doing things one way because that is the way they have always been done. The Citizens Broadband Radio Service is not one of those cases. Here, the Commission has taken bold steps to pursue a new approach.

When this band was originally identified for potential sharing in 2010, there was very little interest from the private sector. Many assumed that accommodating incumbent Federal operations would prove too cumbersome and restrictive for conventional commercial deployments and that, therefore, the band would not be viable for non-Federal use.

Instead of giving up, we went back to the drawing board and developed a new approach based on small cells and dynamic spectrum access. The 2015 *First Order* establishing the framework for development of this spectrum created a new three-tiered access scheme in the Citizens Broadband Radio Service -- Incumbents, Priority Access, and General Authorized Access (GAA) -- which accommodates many users and use cases, and manages scarcity in several new ways. We rely on an innovative Spectrum Access System to automatically coordinate access to the band. This innovative, hybrid model weaves together elements of our licensed and unlicensed models, providing many of the benefits of both models in a single band.

Once we pursued the hybrid model, we witnessed extensive interest in the band from a variety of potential users and developers, both from the licensed and the unlicensed communities, and development of wireless technologies for this band is already under way. Numerous major providers and equipment manufacturers have already announced their plans to aggressively develop and market equipment for the band and deploy quickly.

Some have argued that we should stick with the exclusive licensed model alone, that the shorter license terms in this band will not support investment, and that the lack of renewal expectancies creates too much uncertainty. These concerns are misplaced and reflect 20th Century thinking that ignores the way networks are being developed and deployed today. Today's networks already combine both licensed and unlicensed technologies. We need to provide as much spectrum as possible using similarly flexible models. That is exactly what we are doing here and the strong commercial interest in 3.5 GHz reflects that we have struck a good balance.

Furthermore, the bold new action we are taking in the 3.5 GHz band is more than simply an "experiment." It is the product of careful compromise that has resulted in an innovative and creative solution that provides access to spectrum that would not otherwise exist, that provides room for new service providers and competition, and that lets the market determine the highest valued use of the spectrum.

To be sure, I do not think the 3.5 GHz model is appropriate everywhere, and I will continue to support both the exclusive licensed and unlicensed approaches, independently, where such approaches make the most sense. But, in bands where the problem of spectrum access calls for a creative solution, we should not shy from breaking new ground.

In this *Second Order*, we reaffirm our commitment to this Innovation Band, while at the same time making several tweaks to the rules to provide additional flexibility to providers. We also resolve the few remaining issues from the proceeding's *Second Further Notice of Proposed Rulemaking*, in order to provide all stakeholders with a clear path forward in the band.

First, we establish rules for defining when a Priority Access License (PAL) is in use that both ensures flexibility for the licensee and consistent and equitable availability for other users, an approach that we term "use or share." In the April 2015 *First Order*, the Commission established rules that would allow GAA users to operate in "unused" Priority Access channels and sought comment on how such use should be defined. Today's *Second Order* adopts an engineering-based approach to determining which areas are "in use" that will allow PAL licensees to report their operational boundaries with an objective maximum protection area based on an engineering metric. This approach will ensure that actual Priority Access operations are protected, provide an objective measurement where necessary, and ensure consistent and equitable spectrum availability for GAA users.

Second, we seek to facilitate secondary market transactions in a manner that will leverage the unique technical characteristics and regulatory framework of the band to encourage investment, promote efficient spectrum use, and reduce administrative burdens. We therefore, adopt a "light touch leasing" approach that will minimize the administrative burdens of facilitating leasing potentially across over 500,000 licenses. This leasing approach will facilitate a robust, fluid, and flexible secondary market for PALs in a way that will leverage the unique technical characteristics and regulatory framework of the band to encourage investment, promote efficient spectrum use, and reduce administrative burdens.

Third, we adopt carefully balanced protections for fixed satellite earth stations with the need to maximize availability of the 3.5 GHz Band for commercial broadband use by utilizing the unique capabilities of the Spectrum Access System (SAS) to calculate protections for in-band earth stations – and a small subset of earth stations in the 3700-4200 MHz band – targeted to the unique characteristics of each site.

Finally, we have incorporated a bipartisan, compromise to accommodate the needs of rural providers in areas for which there is no competition for exclusive licensing. In rural license areas, if only one applicant is seeking a PAL and, therefore, the competitive bidding process in that license area is not triggered, the Commission will issue a single PAL to that applicant. While the Commission expects that mutual exclusivity will likely be triggered in all license areas, we believe that this narrow exception is appropriate to create an opportunity for operators that provide broadband services to Rural Areas to secure assured exclusive access to spectrum, regardless of competitive demand.

This item carefully balances the comments submitted by different stakeholders and potential future users of the band, and seeks to further the public interest, promote innovation, and stimulate future investment in the band. With its passage, we put the final regulatory puzzle pieces in place to complete the rules for the Citizens Broadband Radio Service. Next, the Wireless Bureau and Office of Engineering and Technology will turn to the process of reviewing, testing, and approving SAS Administrators and Environmental Sensing Capability operators. As we strive to maximize the spectrum opportunities, these tools become critical components of our spectrum toolbox.

Thank you to the Wireless Bureau, the Office of Engineering and Technology, and the International Bureau for their work on this item and their work over the years crafting innovative solutions to utilize this spectrum more efficiently and effectively.