

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY**

Re: *Expanding Flexible Use of the 3.7 to 4.2 GHz Band, GN Docket No. 18-122; Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz, GN Docket No. 17-183; Petition for Rulemaking to Amend and Modernize Parts 25 and 101 of the Commission's Rules to Authorize and Facilitate the Deployment of Licensed Point-to-Multipoint Fixed Wireless Broadband Service in the 3.7-4.2 GHz Band, RM-11791; Fixed Wireless Communications Coalition, Inc., Request for Modified Coordination Procedures in Band Shared Between the Fixed Service and the Fixed Satellite Service, RM-11778*

As someone who has spent considerable time on this issue, I thank the Chairman for bringing this important spectrum item to a vote. More than two years ago, it became readily apparent to me that a global shift in the future of spectrum had occurred and the world was eyeing mid-band spectrum as a component for 5G deployment. Thus, it became vital for the United States to have available a serious mid-band play to complement our spectrum work in the low and high bands. Since that time, I have pushed for this spectrum and other bands, such as the frequencies below 3.5 GHz, to be opened for commercial wireless use.

Given the limitations and difficulties elsewhere in mid-band, the 3.7 to 4.2 GHz band, or C-band downlink, became my primary focus. Specifically, it provides a wide swath of spectrum and it just so happens that the current primary users, certain satellite providers, are receptive to reducing their spectrum footprint. It is rare that you can see the stars align to be able to execute such a large change in spectrum policy.

To execute this win-win scenario, certain principles – at least from my view – need to be acknowledged and respected. First, the reallocation needs to happen fairly quickly. We cannot wait five or ten years to open the band for flexible wireless use. Second, a reallocation must release a sufficient amount of spectrum. In my mind, that is far more than the 100 megahertz initially proposed by the resident satellite providers. In particular, I have strongly advocated for at least 200 or 300 megahertz, with a serious review to release even more. Third, any reallocation must fully protect the incumbent contractees that currently use C-band to bring many services to consumers. From my perspective, any final proposal that doesn't do that will be close to a non-starter. That does not mean they all must be accommodated on remaining C-band spectrum, but their ability to offer services cannot be disrupted. And fourth, the proposal must include permitting unlicensed spectrum use in the C-band uplink, better known as 6 GHz. As a strong supporter of unlicensed spectrum use, this is a necessary ingredient to addressing the needs for more unlicensed spectrum users, while meeting our statutory obligations under the RAY BAUM'S Act of 2018.

The reality is that if everyone puts aside preconceived notions, a final proposal, in the very near future, can address everyone's concerns and needs. Cooperation and avoiding unnecessary tangents will be paramount. In the end, adding these frequencies to 3.5 GHz and, hopefully, spectrum at 3.4 GHz will be a firm foundation of new spectrum opportunities for 5G in the mid-bands. Today's item moves sufficiently in the right direction for my purpose, at least for the NPRM stage, so I am pleased to support it.

There are, however, some things I would have done differently than what is contained in the item. As previously stated, it is of utmost importance that this proceeding is concluded and spectrum is released into the marketplace quickly. There can be no unnecessary delays or distractions. Parts of this item, while interesting, are not practical and unlikely to be adopted. I'll just mention a couple for now. Consider that the record clearly supports a market-based approach, but the item veers off seeking

comment on various auction mechanisms, many of which were not suggested in the record and some of which are incredibly complex or downright troubling. For example, those I have spoken with are scratching their heads at the transponder capacity incentive auction and are being forced to hire experts to try to make sense of it, unclear how it would work in practice. I am concerned that such ideas may detract time and attention from more viable options.

Although there are still many details to be worked out about the market-based approach, it is easy to see how the spectrum can be expeditiously put into the hands of the wireless industry and how the satellite industry and its broadcast, cable, and other customers can be made whole. The money received by the satellite industry from these free market negotiations will cover the costs of repacking their users, improving technology and filters, launching new satellites, laying fiber, or moving their customers to new technologies or satellite systems. It is not clear how some of these issues will be tackled under some of the other ideas proffered in this notice.

I also question whether eliminating full-band, full-arc is feasible. Further discussions will have to be held with industry to determine how the business model works under a different mechanism. I look forward to discussing these issues with satellite and the other affected industries as we move forward.

Additionally, I have serious concerns about the idea to permit fixed wireless use in 160 megahertz of spectrum in the upper portion of this band. I am fully supportive of fixed wireless, but the focus of this item should be clearing as much of this spectrum as possible for flexible use. It doesn't make sense to put fixed operations in 160 megahertz of this band if there are future possibilities to clear more spectrum. For example, entities have told me that 100 megahertz channels are ideal for 5G mobile operations, but taking 160 out of 500 megahertz takes two channels off the table. Once fixed operations are present, it will be hard to move them elsewhere and mobile or other uses would likely have to protect incumbents, minimizing its potential use. It is also unclear whether sharing between satellite and fixed wireless uses is compatible in bands that are likely to be congested when all satellite use is condensed into fewer frequencies. Basically, we have no idea whether and how this proposal will work.

Finally, I appreciate the Chairman's efforts to free up mid-band spectrum, including his commitment to me to bring the 6 GHz NPRM for the Commission's consideration this fall. This spectrum, which is next to the 5 GHz band, provides the next best opportunity, other than 5.9 GHz, to expand Wi-Fi and other unlicensed operations. Further, it will provide spectrum for new innovative opportunities for America's entrepreneurs and those who want to enter the marketplace without the expense of purchasing spectrum at auction. I wish we were voting on this item today, but recognizing that it will soon come will suffice.