

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL
APPROVING IN PART, DISSENTING IN PART**

Re: *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services*, GN Docket No. 14-177

You want to bring a new spectrum band to market? It takes work. You can start by searching for airwaves that are suitable for new wireless uses. Then you will need to come up with a way to clear existing users and relocate them elsewhere. You will need to ensure that your new users do not harm adjacent users or the services they provide. You also will have to explore how to harmonize your rules for this band with the rest of the world in order to develop an ecosystem of devices that make service viable. In addition, you'll have to come up with a distribution system for these airwaves, and if they're licensed this will typically involve the careful design of an auction.

As you might imagine, this takes time. In fact, historically, it has taken this agency as much as ten years to clear spectrum bands and bring them to market. Sharing spectrum is faster, but even this has traditionally taken as much as five years.

This is the kind of effort that preceded our decision today. This is the kind of effort that this agency has put into developing the opportunity for commercial use of the 37, 39, and 47 GHz bands.

That's why today's decision is so striking. Rather than moving us closer to bringing these bands to market, it injects new uncertainty into the viability of parts of these bands just months before they are set for commercial auction.

Let me explain. The decision circulated three weeks ago set forth a process for accommodating federal sites in the upper portion of the 37 GHz band. But instead of offering clear, transparent guidelines about how spectrum coordination with the Department of Defense would work, it raised more questions about federal use in the band than it answered. A few more details were offered by my colleagues late yesterday, but the process still lacks specificity. Worse, even these details were clouded by an eleventh-hour missive from the Department of Commerce last evening, which set forth its own version of how the process for coordinating new federal uses would occur.

If you're confused—trust me, you're not alone. At this point, all of this uncertainty and regulatory back-and-forth could easily depress participation and bidding at auction. That would be a shame—because a lot of work has gone into developing these airwaves for new mobile use.

But sadly, this course of events is not unique. It has been the recent pattern in our 5G auctions. Right now, our 24 GHz auction is underway. That too has been mired in an embarrassing public dispute about spectrum rights between this agency and the Department of Commerce.

This is embarrassing. It is no way to do spectrum policy. I believe that bidders should know with certainty that they will be able to use the spectrum they are purchasing at auction.

That is why I asked that we take a step back and issue a rulemaking. I think the public should be able to weigh in on the new coordination process that was shared with my colleagues yesterday. I think the public should be able to comment on the federal accommodation process contemplated here because I believe every bidder should know with precision what rights they purchase at auction. I also suggested that we seek broader input on how we can improve interagency coordination going forward, to avoid these kinds of hiccups.

Bringing new spectrum bands to market is not simple. But to make the effort worth the reward, we are going to have to develop a more thoughtful way to manage federal disputes over our airwaves. We are going to have to formulate clear principles. We are going to need a transparent process. And by any measure, this is not it. So while I support moving forward with rules to allow operation of individually licensed earth stations in the 50 GHz band, I believe that this decision falls short with respect to the upper 37 GHz band. Consequently, I approve in part and dissent in part because I believe that for good spectrum policy, we have more work to do.