

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY,
CONCURRING**

Re: *Amendment of Section 74.1231(i) of the Commission's Rules on FM Broadcast Booster Stations, MB Docket No. 20-401; Modernization of Media Initiative, MB Docket No. 17-105; Amendment of Section 74.1231(i) of the Commission's Rules on FM Broadcast Booster Stations, RM-11854.*

I have long advocated for the elimination of asymmetric regulations that undermine the ability of legacy providers to compete effectively with their unregulated counterparts, and this need is no more apparent than in the broadcast industry. In fact, the Commission should jettison much of its regulatory model for legacy providers, especially broadcasters. I therefore welcome newcomers to this discussion who offer creative ideas that seek to achieve the same or similar goals, such as today's Notice. While I have certain reservations regarding the contemplated approach in today's Notice and have questions as to how it would work in practice, the item's broad scope and fairly neutral tone make it appropriate to at least open the discussion on the changes under consideration. The record should be quite telling on this matter.

At the same time, the rollout of the Notice seems a bit hasty, given its substantial implications for reshaping FM radio policy and the radio advertising marketplace. It's not a perfect analogy, but when one considers the many years that went into studying NextGenTV and all the twists and turns that came with the process, this rulemaking's embrace of new radio technologies seems to have occurred at almost light speed. In addition to these process-related concerns, there are also substantive reasons to proceed with caution. As I have noted elsewhere regarding proprietary technology and regulations, any rulemaking that considers taking steps that rely on a proprietary technology should be done under a watchful and extremely skeptical eye. It can take years, if not decades, to undue problematic regulations that contain embedded technologies.

Further, geotargeting will likely have different consequences for different stations, and it will be important for the record to flesh out the relevant benefits and drawbacks of more targeted ad sales. Some argue that increased targeting could expand ad sales by making smaller stations, and even boosters, more attractive to ad buyers. However, it is also possible, at the same time, that geotargeted ads will lower station revenues overall because these ads will be cheaper as a result of reaching fewer ears, leaving stations with a more limited product to offer and putting them in the position of having to recoup lost revenue.

If advertisers can slice any given market into half a dozen mini markets, it is possible they will only buy spots in certain neighborhoods and forego others, while potentially reallocating remaining funds to digital advertising or other media. In the best-case scenario, radio stations would be under heightened pressure to sell *even more* ads, at a time when potential ad sales are already being lost to other media. In the worst-case scenario, the door could be opened to allowing advertisers to entirely ignore certain neighborhoods or mini markets, placing an untenable strain on small stations or broadcast boosters that operate in these areas and harming consumers who live there. In the absence of more robust analysis, the assumption that these changes will promote diversity of voices, much less ownership, is incredibly premature.

While I have many questions and concerns about geotargeting and how it would be implemented, this Notice is fairly even handed and should provide an appropriate opportunity for advocates and skeptics alike to adequately develop the record as needed. Let's open the discussion but ensure the Commission does not rush to conclude this proceeding without understanding all of its implications.