

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY**

Re: *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, WT Docket No. 10-208.

This item seeks to forge a path forward from the long-standing mess that was the Mobility Fund Phase II (MF II) proceeding, proposing to fund the deployment of 5G service to unserved rural Americans while seeking comment on two separate and alternative approaches. The item is very well-intended, and I applaud steps to reform our current mobile legacy high-cost support program. It should go without saying that as a huge proponent of 5G and the benefits it will bring to Americans and our economy, I appreciate the Commission's focus on ways to facilitate its deployment nationwide, especially in the harder to reach parts of America. Nonetheless, I do have certain questions and concerns with respect to some of the proposals and conclusions in the item that will have to be worked out before the proceeding ever goes to final order. Overall, it is certainly worthy of support at the NPRM stage, and I approve its adoption today.

First, I have some questions as to our legal authority to move forward with Option A, if we were to do so, and establish a new funding mechanism before we fulfill our obligations to produce mobile coverage maps pursuant to the Broadband DATA Act. While there is possibly an argument that Option A complies with the strict letter of the statute, I wonder if proceeding in such a manner would be contrary to the spirit of the law. To add some color to the debate, moving ahead without new maps doesn't seem to match up with my conversations with leading Congressional sponsors of the law prior to and following enactment. Particularly, the point has been made that the law was never meant to give the FCC license to introduce new funding mechanisms as long as we had not yet fulfilled our obligations to produce new coverage maps. Indeed, unlike the Rural Digital Opportunity Fund (RDOF) proceeding, which was already in motion prior to the passage of the Broadband DATA Act, the Rural 5G Fund mechanism appears to be within the ambit of a "new award of funding" for which the FCC would need to use the statutorily-required maps. I look forward to examining the record on this point.

Second, there are vast areas of the country that lack access to 4G LTE, or even 3G service, and I am concerned that the item's entire premise—that it no longer makes sense for the Universal Service Fund to subsidize 4G LTE at all—may not be the best course of action if our goal is to target the unserved. The deployment of 5G is going to be very different from past leaps to the next generation of technology. Specifically, 4G LTE is not going away and will work in tandem with 5G. You can't slap together 5G networks just anywhere if the apparatus and fiber backbone to support 4G LTE don't exist somewhere nearby. Moreover, I do worry that a decision to advance such an auction could favor less expensive to serve areas that already have 4G LTE and leave the most expensive to serve areas behind. From what I have heard across the wireless industry, the deployment of 5G networks involves vastly greater costs as compared to 4G LTE. This, combined with scant details regarding the source of the \$9 billion figure and sufficiency of the proposed budget, raises significant concerns; at this decision point, we should at least have some idea of what this level of funding would buy. I do appreciate that the item proposes to adopt a version of the prioritization mechanism that I formulated for the RDOF auction framework, but I wonder if this may not be enough to ensure that the most challenging to serve areas will be left in the dust. Again, I look forward to reviewing the record on this question.

Apart from these issues, I have policy concerns over the proposal in Option A to use new datasets with which we have little familiarity and that are based on census data from ten years ago in order to determine eligible areas. Likewise, I also worry that the item's proposal to use Phase II of the fund to facilitate precision agriculture may not fit within the FCC's expertise, or be properly targeted to those with the greatest need for 5G service or USF subsidies. I'm all for precision agriculture but my first priority must be to reach unserved people and businesses, no matter which industries define their communities.

Finally, certain language and assumptions in the item that relate to T-Mobile's recently consummated merger with Sprint seem inappropriate. While T-Mobile's deployment commitments in

that transaction are population-based and not geography-based, the item seems to rely on inducing T-Mobile to produce geographical maps of where it plans to build in order to avoid subsidized competition. The item therefore seems to impose additional requirements that T-Mobile never consented to in the completely separate proceeding related to its transaction. Further, to the extent that the absence of planned deployment data from T-Mobile leads to the perverse consequence of subsidized overbuilding, that is yet another reason why we shouldn't subvert market forces by over-extracting merger conditions in the first place.

Despite these points, I will keep an open mind in reviewing the record in this proceeding and vote to approve.