

**DISSENTING STATEMENT OF
COMMISSIONER BRENDAN CARR**

Re: *Modifying Emissions Limits for the 24.25-24.45 GHz and 24.75-25.25 GHz Bands*, ET Docket No. 21-186 (December 22, 2023)

Backwards. When it comes to America's leadership in wireless, the Biden Administration is moving backwards.

Today's Notice of Proposed Rulemaking is just one example. In it, the FCC seeks comment on the Biden Administration's request that the agency impose new restrictions on 24 GHz spectrum that licensees bought and paid for all the way back in 2019. There is no apparent reason for this U-turn. Indeed, while the Notice discusses several potential rule changes that may be necessary for purposes of conforming our rules with the results of the 2019 World Radio Conference (WRC-19), these particular Biden Administration requests are asks that were either rejected or never even studied at WRC-19. Thus, WRC-19 provides no basis or justification for turning heel.

What's more, changing the rules of the game after an auction has already closed—years after in this case—is bad policy. It undermines the reasonable, investment-backed expectations held by licensees and potential licensees alike. And it injects uncertainty into the FCC's spectrum auction process, which makes it harder to attract capital as well as innovators. The FCC should be leading the world with clear, predictable, and reliable spectrum auctions.

This decision is also disappointing because it comes at a point in time when the U.S. needs to start generating forward movement on spectrum. Just last month, after three years of study, the Biden Administration released its much-anticipated National Spectrum Strategy. Except, President Biden's spectrum plan was missing one key ingredient: spectrum. Indeed, the plan commits to freeing up exactly zero MHz of spectrum. Instead, the Administration will continue to study the issue for years to come.

The Biden Administration's spectrum-less spectrum plan is a big miss because the rest of the world is not standing still. The U.S. now ranks 13th out of 15 leading markets when it comes to the availability of licensed mid-band spectrum. The U.S. now trails its peers by an average of almost 400 MHz in licensed mid-band spectrum. And the U.S. is now nearly 700 MHz behind China, according to some measures.

This marks a complete 180 from just a few short years ago. During the last Administration, the federal government worked to free up an unprecedented amount of spectrum for 5G and other next-generation wireless services. All told, our efforts freed up about 6,000 MHz of spectrum for licensed 5G services in addition to thousands of MHz of spectrum for unlicensed use. The Biden Administration only plans to study less than 2,800 MHz. In other words, the FCC moved more spectrum into the commercial marketplace for consumer use from 2017 through 2020 than the Biden Administration plans to study—and it is not even close.

The U.S. needs to right the ship. And it can start with (hopefully) rejecting the Biden Administration's misguided request to claw back spectrum rights that the FCC auctioned off in 2019. And it can accelerate with the Biden Administration putting forward an actual spectrum plan that will improve connectivity and capacity for Americans.

For my part, I cannot support this look backwards. Accordingly, I dissent.