

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Promoting Spectrum Access for Wireless Microphone Operations*, GN Docket No. 14-166; *Amendment of Part 15 of the Commission's Rules for Unlicensed Operations in the Television Band, Repurposed 600 MHz Band, 600 MHz Guard Bands and Duplex Gap, and Channel 37, and Amendment of Part 74 of the Commission's Rules for Low Power Auxiliary Stations in the Repurposed 600 MHz Band and 600 MHz Duplex Gap*, ET Docket No. 14-165; *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268.

From the time that the Commission commenced the broadcast incentive auction proceeding, we knew that the wireless mics operating in the TV band were going to present quite a challenge. Post auction, full-power broadcasters would be repacked and all other users of the band would have to do more with less. This led the Commission to initiate a series of inquiries on how we could accommodate the need for wireless mics, including opening up new spectrum bands.

The Commission also decided that entities using 50 or more mics could obtain licenses and register for interference protection from other unlicensed users. In doing so, it tried to strike a balance between protecting the operations of professional sound companies or venues that have a need for a large number of mics and high-quality sound, and ensuring that spectrum is shared effectively with other licensed mic users and unlicensed use, such as TV white space devices.

Admittedly, the selection of 50 microphones as a proxy for those users who were likely to require interference protection and high-quality sound never really appeared to be supported by any data. Fifty seemed to be picked because it was reasonable that most large professional events, such as Broadway shows, concerts at the Verizon Center, and the largest sporting events, would need a lot of mics. This is not exactly the best way to make policy. Because this number was not based on solid data, I generally support reopening this issue.

I do wonder, however, about the possible direction we are headed in the further notice. It proposes that we should replace the objective number-based metric, with a rule that would permit, on a case-by-case basis, certain theater, music, performing arts organizations, and possibly others to obtain a license if they demonstrate a professional need for high-quality mics. I have stated repeatedly that I am not necessarily a fan of case-by-case determinations, because they can leave important decisions to the whims of the Commission or staffer reviewing the request at the time.

Putting this fundamental concern aside, such an approach also requires a perpetual line drawing exercise that may be quite burdensome. Wireless mics are used not only in large arenas, stadiums, convention centers and theaters, but also schools, colleges, churches, and karaoke bars. Under today's proposal, all of these entities and more can come to the Commission to argue that their business has a need for high-quality sound. This could result in an unmanageable number of petitions and some likely inconsistent decisions.

Additionally, we must give a lot of thought about how this proposal will affect the other users in the TV and 600 MHz band. Every additional entity that is provided protection means that there may be another wireless mic licensee in the area, such as a broadcaster, cable TV operator or the latest pop star's concert, that may not be able to reserve the resources it needs. Additionally, it means less spectrum will be available for TV white spaces, something we have heard quite about recently for good reason.

We also should think about whether this promotes the efficient use of spectrum and the use of spectrally efficient microphones. When we started this proceeding, I warned that wireless mics users should contemplate exiting the TV bands. Spectrum is already in short supply, and I would predict in the coming years another broadcast incentive auction is more than likely than not. This could result in mics having to relocate once again. For this reason, we should encourage fewer, not more, wireless mics in the 600 MHz and TV bands.

Regardless of these concerns, I will support the reconsideration of this issue, especially since questions were added, at my request, that will elicit a dialogue on some of these various issues. Additionally, a paragraph was added seeking comment on alternatives to the proposed case-by-case approach. I thank the Chairman for taking my concerns into consideration.