

**STATEMENT OF  
COMMISSIONER JESSICA ROSENWORCEL,  
DISSENTING**

Re: *Promoting Investment in the 3550-3700 MHz Band*, GN Docket No. 17-258; *Petitions for Rulemaking Regarding the Citizens Broadband Radio Service*, RM-11788 (Terminated), RM-11789 (Terminated)

It is hard to overstate the audacity of United States spectrum policy. Over history we have done the kooky and the unconventional. We have seen the future and done it differently before anyone else. In the process, we have changed the way that wireless systems are developed and distributed not just domestically—but worldwide.

After all, more than two decades ago we took the academic ideas of Ronald Coase and reimagined how we distribute our airwaves. Instead of doling out specific licenses for specific uses based on political cues, we ushered in a new era of spectrum auctions—selling access to bidders and allowing them to use it however they choose. It’s difficult to remember now, but these ideas were once mocked by experts, opposed by industry, and dismissed by policymakers. However, in the rear-view mirror, they have been a resounding success. The Commission has held more than 85 auctions, issued more than 44,000 licenses and raised more than \$140 billion in revenue. As a result, our efforts have been a model for regulators worldwide.

We also pioneered the use of unlicensed spectrum. We took a handful of underused frequencies known as “garbage bands” in the 900 MHz, 2.4 GHz, and 5.8 GHz bands and decided to test a new model. Instead of dismissing these airwaves as junk we put in place a new model that set technical parameters and then did something radical—gave the public access to these airwaves. This was edgy stuff. It was a move away from command and control spectrum policy. But this experiment was a wild success. Because in time a standard was developed known as 802.11—and this is the spectrum where Wi-Fi was born.

More recently, we blazed a trail for incentive auctions. The two-sided broadcast incentive auction that the Commission just held was the first of its kind worldwide. We tested the proposition that existing spectrum licensees might voluntarily relinquish their rights in exchange for a portion of the proceeds from the subsequent reauction of their airwaves for new flexible use. And so far, so good—the auction concluded successfully earlier this year. Regulators globally are taking note.

The same audacity fueled our initial plans for the 3.5 GHz band. But I fear that with today’s rulemaking this agency has lost its daring. Instead of continuing in the innovative spirit of United States spectrum policy, we are in retreat. We are slowing access to these airwaves and falling back on stale spectrum policy ideas that may have worked in the past but will by no means guarantee success in the future.

The 3.5 GHz band framework the Commission put in place two years ago was creative. Instead of relying on the traditional binary choice between licensed and unlicensed, the agency adopted an unprecedented three-tiered model for spectrum sharing and management. Under this three-tiered system, incumbent government users have a primary and preemptive right. But we know they do not need access all the time, everywhere, so we created a secondary license opportunity, custom-built for small cells. Then, to the extent the demand for licenses is limited, opportunistic use is permitted by rule. To coordinate this grand effort, we proposed dynamic spectrum access systems.

Elements of this 3.5 GHz model remain in place. But this rulemaking seeks to gut what was most visionary about this framework. It seeks comment on extended license terms. It asks about putting in place larger geographic licenses. It offers up same-old, same-old instead of what could be creative and different.

To put a finer point on it, this rulemaking takes what was most innovative about our existing 3.5 GHz model and casts it aside in favor of existing business models. This is short sighted. The success of our future auctions depends on growing a new class of spectrum interests—who can innovate and join the ranks of those who bid on airwaves and support the Internet of Things. This is important. Because as our national providers grow bigger and fewer in number, the power of using auctions as a tool for distribution is compromised. Simply put, we need more entities interested in opportunities in our airwaves.

Moreover, our 3.5 GHz framework was ready to go. Millions of dollars have been invested. More than 200 experimental authorizations have been granted. Protocols regarding operations, interoperability, security, and device testing are well underway. Product certification programs have already begun.

All of that, however, stops short with this rulemaking. We can hem and haw about how we are making changes to foster deployment, to increase investment, and speed the way to 5G. I don't buy it. We are impeding real progress. We are betraying our hard-won spectrum tradition of leading the pack and changing the paradigm. I dissent.