

**STATEMENT OF FCC COMMISSIONER MICHAEL O'RIELLY
BEFORE THE SENATE COMMITTEE ON COMMERCE, SCIENCE, & TRANSPORTATION
NOMINATIONS HEARING
JUNE 16, 2020**

Chairman Wicker, Ranking Member Cantwell, and Members of the Committee: I sincerely appreciate the opportunity to appear before you to discuss my nomination for a new term at the Federal Communications Commission, especially in the midst of the current COVID-19 pandemic facing our nation.

Many Members of the Committee may be familiar with me from my many years at the FCC or from just short of twenty years working on Capitol Hill. I have absolutely loved serving the American people and would be honored to continue in my position at the Commission, if you deem it appropriate. The work is both challenging and rewarding, and I believe that there is so much more that I can accomplish to improve the communications landscape in the years to come.

Nearly seven years ago, during my original confirmation hearing, I promised the Committee that I would seek to work with my fellow colleagues, to the extent possible, to find common ground. I think my record since then suggests that I kept my word. Former Chairman Tom Wheeler, with whom I strongly disagreed on many issues, collaborated with me on numerous important matters, including reforming legacy rate-of-return regulation to promote broadband buildout. Similarly, I have worked with Commissioner Rosenworcel and former Commissioner Clyburn on a fair number of projects and issues. I have also joined with — and occasionally opposed — my fellow Republican colleagues to advance communications policy. While most of the time I have agreed with Chairman Pai's priorities, there have been some disagreements from time to time that may not have been necessarily visible to the public. You can be assured that I have worked behind the scenes to effectuate changes to those items, or portions thereof, that I couldn't support as presented. As is his reputation, Chairman Pai has been incredibly gracious in working with me to improve these items to mitigate my concerns. In sum, my commitment has been to find and support good ideas and sound policy outcomes, no matter where or from whom they originate.

Throughout, I have tried to stay true to my original commitments in approaching my role as commissioner. As a self-admitted conservative Republican and firm defender of freedom, my principles are used as an important prism that guide me in my review of the issues, and I have focused on limiting the costs and burdens on the American people from new regulations and eliminating existing regulations that are no longer necessary. Regardless of my personal views on a particular matter, however, I am always beholden to the will of Congress: if Congress has not provided authority to act, then I have respected those constraints on our authority and openly opposed moving forward. Alternatively, if the Commission has been directed to take specific action, I have always voted to approve corresponding Commission implementation efforts. My fidelity remains to the statutory provisions as written by Congress, along with the FCC public record on any given topic. That said, the record in any proceeding is not a counting exercise or polling matter. A thoughtful submission, well-grounded in the law and Commission precedent, can and does outweigh thousands of form emails containing little real substance.

One area that on which I have spent considerable attention and energy is improving the inner workings of the Commission. FCC process reform, which gets few headlines and little attention from practitioners, has been an important issue set for me — whether in the minority or majority. From

making the text of items publicly available three weeks before a Commission Open Meeting, to my 60-plus procedural ideas, to my recent call for video conferencing to increase the accessibility of FCC meetings during COVID-19, I firmly believe that the transparency, accountability, and responsiveness of the Commission can be improved, for the betterment of our decision making and the American people. I appreciate that a number of my ideas have been incorporated into our procedures, but I believe there is more work to be done. Further, any improvements that have been made should be maintained and not erased at the whim of a new chair.

On policy matters, there is much work ahead. I believe the biggest issue facing the Commission is how to bring broadband to those Americans without service. While some want to focus on affordability, and others on ensuring multiple competitors within a market, I have focused my time and efforts on bringing service to those millions of Americans without any access to broadband at all. I am painfully aware of this demographic, despite our poor mapping and related data. It is indisputable that broadband brings many benefits to those who are able to obtain it, and this is especially true in circumstances like the pandemic we face today. Having travelled the nation and heard from American families and businesses that don't have access, I am committed as ever to shrinking this population as fast as possible in a thoughtful way.

Secondly, and on a related note, since wireless broadband is a key part of solving this problem, the Commission must identify and reallocate additional spectrum bands for new wireless services, including 5G, 6G, and beyond. As a lead advocate for both 3.5 GHz and C-Band, I have worked extensively to make more mid-band spectrum available, but the progress we have made is not enough. The 350 megahertz of licensed spectrum in both the 3.5 GHz band, which has certain limitations, and C-Band will not meet the future spectrum needs of new technology and the mobility-demanding public. It is essential that the mid-band pipeline, which lies mostly empty, be replenished in the very near term. Absent this, we face the real risk that the U.S. will lose its preeminent position in global wireless leadership. Preventing such an outcome means that the Commission is likely headed for future clashes with those entities occupying the most ideal mid-band spectrum.

I have also been at the forefront of identifying additional bands for unlicensed use. Early on, I identified the 6 GHz band, which is located near the 5 GHz spectrum so prevalent in our existing Wi-Fi systems, as the best opportunity to expand unlicensed opportunities and provide the larger bandwidth channels needed for greater capacity, higher speed, and lower latency Wi-Fi, along with other unlicensed offerings. The Commission recently opened these frequencies for some unlicensed uses, and I hope to expand upon our technical rules to permit even more uses in the future, such as for very low power devices.

Finally, there has been considerable debate in Congress and elsewhere about the regulatory treatment of the U.S. high technology community. Generally, the FCC does not have authority over many of the issues pertaining to these companies. Recently, the conversation has focused on the legal liability protections provided to high-tech companies and others offering applications or platforms for third party content. If asked to intervene, I intend to fully explore all of the extremely complex and relevant issues involved. Prior to getting to that point, I believe that the Commission would benefit from seeking public comment on any forthcoming petition to be filed by the National Telecommunications and Information Administration from a wide range of experts, including constitutional scholars, academics, and public policy leaders, on issues such as the Commission's jurisdiction and the First Amendment implications of any action under consideration. Like my practice of reading every item on which I am asked to vote, you can expect that I will do my homework on this important subject as well.

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I thank the Committee for its consideration of my nomination and stand ready to answer any questions you may have.