

Statement of FCC Commissioner Michael O’Rielly
Before
The Subcommittee on Communications and Technology
Committee on Energy and Commerce
U.S. House of Representatives
FCC Oversight Hearing
September 17, 2020

Good morning. I appreciate the opportunity to join the Subcommittee as it conducts further oversight of the Federal Communications Commission. This institution holds a special place in my heart as it is where I began my professional career nearly 27 years ago.

Today is likely the last time I will testify before Congress as a sitting member of the Commission. I am incredibly proud of the amount and quality of work product I have accomplished for the American people during my tenure. It has been a tremendous honor to hold this position, and I have approached the role as though you were in my seat, guided by fidelity to the law and the will of lawmakers; respect for the millions of Americans you represent here in Washington; regard for those appearing before the Commission and the arguments they raise; and a determination never to take a single day, meeting, site visit, or conversation for granted. To paraphrase former President Ronald Reagan in his farewell address to the nation, my team and I weren’t just marking time. We made a difference.

Instead of raising new issues for the Subcommittee to consider, I thought it would be more appropriate to discuss and reflect on key policies I have focused on during my time at the Commission.

Freeing Up Spectrum for New Commercial Purposes

One of my highest priorities, which stems from my earliest efforts as a Congressional staffer, has been to make spectrum available for new commercial purposes, both licensed and unlicensed. Nearly every significant spectrum effort over the last seven years started with my laying the groundwork to take it on, through speeches, blogs, and hundreds of conversations; pushing Commission leadership and industry to take action; and then shaping the final outcome based on sound policy. From CBRS, C-Band, 5.9 GHz, 6 GHz, TVWS, 3.1 to 3.55 GHz, and multiple millimeter wave bands, I initiated these fights because there was and remains a dire need to reallocate inefficiently used frequencies to more functional wireless purposes, including 5G. This includes pushing federal departments and agencies to be more efficient, regardless of their recalcitrance. These efforts also extend to advocating for additional spectrum and protecting existing allocations internationally, including via attending two World Radiocommunication Conferences. As I exit the policymaking scene, the future pipeline is nearly bare, and the complexities of clearing spectrum are only growing.

Improving Communications Networks for all Americans

I have also focused my energy on expanding broadband availability to all Americans that seek it, within the authority provided by Congress. I have thrown my heart and soul into crafting the right policies to stretch our limited Universal Service Fund (USF) dollars as far as possible, including by serving as the chief advocate for reverse auctions. No one at the FCC has been more outspoken or steadfast than I have been in demanding action to serve the hardest to reach areas, once referred to as Remote Access Fund areas. Those millions of Americans that didn’t, or still don’t, have broadband were my mission and the reason I worked so hard on the Connect America Fund Phase II Auction, the Alaska plan, reforming

rate-of-return regulation, Mobility Fund II, and now the Rural Digital Opportunity Fund. Much more work and thought will be required to solve the remaining service gaps. In particular, this includes ensuring that scarce funding goes to truly unserved areas, rather than overbuilding those where broadband service already exists, and avoiding duplication of USF programs or other federal funding streams.

At the same time, I have worked thoughtfully on Lifeline program reform to ensure that this critical program remains sustainable for both participants and ratepayers. This includes working to fix the minimum standards; eradicating waste, fraud, and abuse; requiring financial “skin in the game” for those who buy service in excess of the minimum standards; and establishing a workable hardline budget. Some would rather eliminate or handicap the program, but I have genuinely tried to improve its operations and structure.

Modernizing Regulations

Turning to our regulated industries, I have also spent considerable effort on updating our regulations and rules to reflect the modern communications marketplace. Simply put, the regulatory models governing broadcast, cable, telecom, and satellite services are vastly out of line with the digital transformation of our society and the fierce competition from completely unregulated companies. As a result, our regulatees are hamstrung at the expense and to the detriment of the American consumers. While improvements have been made, fundamental reform hasn’t been achieved during my time at the Commission, and our outdated regulatory rules and structural silos unfortunately remain in place. This archaic framework also permeates basic market definitions that are used by other agencies, particularly the Department of Justice.

Fixing Commission Transparency

Despite the successes of this Commission, I still believe that efforts to improve its processes deserve greater attention and action. In some cases, outdated procedures frustrate sound policy, while in others they undermine the role and prerogatives of Commissioners. After multiple decades of review from various vantage points, I can frankly say Congress has empowered the role of the Chair with tremendous authority. Moreover, it defies credulity how much work it takes to accomplish simple process reforms. Consider the level of grief for my advocacy to publicly release Open Meeting items upon their circulation to Commissioners, which has been nearly universally supported after it was put into practice for meeting agenda items and should be expanded to circulation items as well.

The Nomination Process

Lastly, there seems to be a great deal of interest in what led to my nomination for a new term being withdrawn by President Trump. In all honesty, there is no salacious story to report. No demands were made to support any position, and no pressure was applied to take any particular action. I was informed that the president was withdrawing my nomination, as is his prerogative, by a very short phone call. I had no conversations with the White House on withdrawing the nomination prior to that point and none since.

I appreciate your attention to these matters of deep concern to me and welcome any questions you may have.