

March 9, 2000

**Separate Statement of
Commissioner Gloria Tristani**

Re: *Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commissions Rule, Second Report and Order, WTB Docket No. 99-168.*

Although both sides have made worthy claims to serving the public interest, I support the decision to impose technical restrictions in the Guard Band spectrum, including a ban on cellular system architecture. The 700 MHz spectrum is well-suited for new services that will help fulfill consumers' growing wireless needs and demands. Interested parties tout its potential for next generation mobile services and fixed wireless broadband services that can be deployed ubiquitously. Even the Guard Bands, which total six megahertz of spectrum, have generated proposals for a variety of uses, including delivery of broadband services to underserved and unserved areas. The challenge of the *700 MHz proceeding*, however, has been to craft a framework that allows for the deployment of such new and innovative services, while fulfilling the Congressional mandate that public safety operations using adjacent spectrum are protected from harmful interference. I believe that our action today, together with the *First Report and Order*, strikes an appropriate balance.

In the 1997 Balanced Budget Act, Congress directed the Commission to reallocate the 746-806 MHz band from exclusive broadcast use to public safety and commercial uses.¹ In doing so, Congress mandated that the Commission establish rules to protect public safety users from harmful interference caused by television broadcasters.² In addition, Congress directed the Commission to ensure that public safety users "continue to operate free of interference from any new commercial licensees."³ I take this direction most seriously. As policymakers, we need to ensure that those who dedicate themselves to protecting life and property can do their jobs without worrying that their communications links may be severed at any moment.

Working with the public safety community, industry, my colleagues and Commission staff, I have sought to provide service rule flexibility while limiting the potential for harmful interference to public safety operations. In the 30 megahertz of spectrum that was the subject of the *First Report and Order*, we adopted rules that take account of these two objectives. Although certain technical restrictions apply, I have no doubt that consumers will benefit greatly from the new services that will be deployed in this spectrum and the exciting applications that will result.

¹ 47 U.S.C. § 337(a), amended by the Balanced Budget Act of 1997, Pub. L. No. 105-33, 111 Stat. 251, § 3004 (1997) (directing that 24 megahertz of spectrum be reallocated for public safety use and 36 megahertz be reallocated for commercial use).

² 47 U.S.C. § 337(d)(4).

³ H.R. Conf. Rep. No. 105-2015, at 580 (1997).

To give full effect to Congress' direction, however, we adopt rules today that impose further technical requirements on Guard Band spectrum immediately adjacent to public safety spectrum. In particular, we require entities operating in the Guard Bands to adhere to the same interference protection regime that governs 700 MHz public safety users. Guard Band Manager licensees will be responsible for engaging in frequency coordination with public safety coordinators. In addition, the rules we adopt today prohibit cellular system architectures in the Guard Bands. The public safety community asserts, and I have come to believe, that as a practical matter cellular architectures adjacent to public safety users would create significant hardships in the frequency coordination process and could increase the potential for harmful interference. Despite the enticing potential the Guard Band spectrum offers for certain commercial uses, I believe that our primary obligation here is to limit the potential for such harmful interference.

I support the action we take today, which fulfills the Congressional mandate to ensure that public safety users may operate in the 700 MHz spectrum without harmful interference.