

Response to Written Questions Submitted by Hon.
John Thune
Written Questions for the Record to
Commissioner O’Rielly

Question 1. Please describe actions the FCC has taken to meet its statutory obligations in regards to the T-band.

Response. As you know, the Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112-96) required the Commission to reallocate and reauction the spectrum in the 470-512 MHz band, commonly referred to as the T-Band, within nine years of enactment. This means that far in advance of February 22, 2021, the FCC must take steps to begin the auction and relocation process. Consistent with passage of the Act in February 2012, I pushed the Commission to cease processing applications for new or expanded T-Band operation and issue a Public Notice seeking information on how to enact the statutory requirement, which it did. Unless the law is modified or eliminated, I support the Commission taking the next steps expeditiously in this matter.

Response to Written Questions Submitted by Hon.
Roy Blunt
Written Questions for the Record to
Commissioner O’Rielly

Question 1. In your dissent to the 2015 TCPA Omnibus Declaratory Ruling, you expressed your disappointment with the Commission’s decision, and discussed the need to balance consumer protection with that of businesses trying to contact their consumers for a legitimate business purpose. I agree with this approach along with six of my colleagues, which we vocalized in a letter sent to the FCC on July 24. Is the FCC planning to ensure the appropriate balance is achieved between these two interests when answering the TCPA questions set before it?

Response. I certainly hope that the Commission will achieve this balance and will advocate internally to my colleagues for such an approach. As your letter eloquently highlighted, “The FCC’s past interpretations of the TCPA have resulted in uncertainty about how those calling in good faith can comply with FCC regulations, making it more difficult for consumers to receive communications they want and need. This chills legitimate communications and leads to increasing class action litigation that often does little to help consumers.”

In fact, as you mention above, I raised similar concerns in my dissent. Specifically, I stated that any claim that the order protected Americans is a farce and highlighted that, in its overreach, the order would penalize legitimate businesses and institutions acting in good faith to reach their customers using modern technologies. Therefore, I was pleased that the D.C. Circuit struck down the 2015 TCPA Omnibus Declaratory Ruling, providing the Commission with the opportunity to rethink its prior decision.

Response to Written Questions Submitted by Hon.
Jerry Moran
Written Questions for the Record to
Commissioner O’Rielly

Question 1. The MOBILE NOW Act, which was signed into law as part of the most recent omnibus package, called for the FCC and NTIA to identify 100 megahertz of new unlicensed spectrum while also requiring the creation of a “National Plan for Unlicensed Spectrum.” What steps will the Commission take to free up much-needed unlicensed spectrum to support growing consumer demand for existing technologies and to provide innovation space for the technologies of the future? How are you coordinating with NTIA?

Response. In July, the Commission initiated a proceeding to reallocate spectrum in the 3.7 to 4.2 GHz band, or C-band downlink, for licensed use. As the Commission considers this proceeding, the overall plan must also permit unlicensed use of the C-band uplink spectrum, or 6 GHz band. As Chairman Thune recently noted to the Commission, the 6 GHz band is a necessary ingredient to address the need for more unlicensed spectrum. This spectrum, along with the potential opening of the 5.9 GHz band and combined with the existing 5 GHz band, will provide the unlicensed community with access to a significant swath of spectrum, creating wide channels for Gigabit services. Moreover, in March, the Commission issued a notice to contemplate whether underutilized spectrum in the 4.9 GHz band – in close proximity to the 5 GHz band – should be allocated for unlicensed use, what the technical rules should be, and how the Commission should deal with the incumbents. Taken together, I believe that these actions will enable us to meet our statutory obligations under the MOBILE NOW Act.

Question 2. This committee worked hard to ensure that adequate funding for the broadcast channel repack in the omnibus this past March, including money for impacted FM radio stations and Low Power TV and Translators. Next month, phase one of the repack moves begin. What process does the Commission have in place to ensure that, if a broadcaster being moved to a different channel is unable to meet their phased move deadline, through no fault of their own, that they will not be moved off of their current channel?

I have repeatedly stated that if a broadcaster being moved to a different channel is unable to meet their phased move deadline, through no fault of their own, I would support modifications to that broadcaster’s deadline in order to ensure that no broadcaster is forced off the air. I have been in constant communication with both the industry and the Media Bureau, regarding the progress of Phase 0 and any anticipated complications or slowdowns as we move forward. Throughout these conversations, it has been clear that affected broadcasters and the FCC are methodically working through the ten phases of the repack. Most experts are not anticipating huge problems until at least phase three, but I’ll be following closely the experiences stations are having with the repack and what issues may be on the horizon. For instance, I was one of the first to raise awareness of the potential shortage of tower crews that could cause relocation delays.

Response to Written Questions Submitted by Hon.
Shelley Moore Capito
Written Questions for the Record to
Commissioner O’Rielly

Question 1. In many rural communities, students have long commutes on school buses sometimes upwards of half an hour, an hour, or even longer one-way. Given the connectivity challenges many students face in rural communities, how could E-rate help connect school buses with wifi to allow students to use commute time to do homework, projects, or other school work?

Response. The FCC’s Universal Service Fund programs—which are authorized pursuant to Section 254 of the Communications Act—have served to help connect consumers and communities that would not otherwise have access to modern communications networks. Accordingly, it is not surprising to see a desire to expand their scope to other aspects of our increasingly connected lives. At the same time, there are certain statutory, fiscal, and practical limits on this agency’s mission that keep us from engaging in certain initiatives, no matter how compelling a particular idea may be. Of course, as I have stated on multiple occasions, any time Congress provides the Commission with clear direction via the passage of legislation, I will implement it as required. In this case, absent new statutory requirements, the Commission currently lacks legal authority to fund such projects under the E-Rate program.