

**SEPARATE STATEMENT OF
CHAIRMAN MICHAEL K. POWELL**

Re: Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands (RM-10586); et al. (adopted March 13, 2003).

By today's Notice, the Commission explores ways for the American people to enjoy the full potential of a large parcel of previously underutilized, prime spectrum real estate. The opportunity is monumental – the MMDS/ITFS band ("2.5 GHz Band") encompasses 190 MHz of contiguous spectrum. This is more than double the 83 MHz that spurred the development of WiFi at 2.4 GHz. It is roughly equal to all spectrum currently devoted to terrestrial, mobile wireless – a ubiquitous, nationwide service characterized by a high-level of competition, low prices, and constant innovation. But the 2.5 GHz band has not yet delivered similar rewards, in no small part because of the well-intentioned, but ultimately misguided, regulatory decisions of this agency.

The 2.5 GHz band has labored for years under the heavy hand of command-and-control regulation. The regime has not served the American people or the Commission's licensees particularly well. Our rules have, at times, been complex and stifling, and have shifted in their objectives – from promoting competition in the MVPD market to offering rural broadband solutions. Despite the uncertainty caused by these regulatory shifts, many licensees have strived to provide innovative and quality services. In particular, some ITFS licensees have conscientiously provided valuable educational opportunities and services to the communities they serve. Similarly, some MMDS licensees have invested considerable resources in researching, developing and deploying networks to provide service in these bands. This Notice is not intended to undermine those efforts. Instead we seek to expand the rights and opportunities of 2.5 GHz licensees, affording them greater flexibility to deliver services to the American people.

As we re-think our spectrum policies in light of the recommendations of the Spectrum Policy Task Force, the time has come chip off the regulatory barnacles encumbering ITFS and MMDS. By this Notice, we explore opportunities to increase licensed use of the 2.5 GHz band via spectrum auctions, examine unlicensed spectrum options, and evaluate rule changes to effectuate our earlier decision to add a mobile allocation to the band. I applaud the work of the National ITFS Association, the Wireless Communications Association International and the Catholic Television Network to develop proposals for the evolution of this band and to expand opportunities for all licensees to achieve their missions. I look forward to continuing our work with them to eliminate the regulatory barriers that have hindered the development of this band for far too many years.