

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY**

Re: *Rules and Policies to Promote New Entry and Ownership Diversity in the Broadcasting Services*,  
MB Docket No. 17-289

I commend the Chairman for bringing to order the incubator program he officially proposed in November after years of previous advocacy. The number of women-owned and -controlled broadcast stations and the number of African-American-owned and -controlled stations in the United States is abysmally low. In fact, according to the Commission's most recent report on the ownership of commercial broadcast stations, women collectively or individually held a majority of the voting interests in only 760 radio stations, or 8.4 percent. African Americans fared even worse, holding collectively or individually a majority of the voting interest in just 159 radio stations, or 1.8 percent. These are anemic statistics resulting from the FCC's longstanding, archaic media ownership rules, which we took important steps to modernize in November.

I truly believe that updating our rules to reflect the actual marketplace will allow broadcasters to compete and thrive. As I stated at a Congressional hearing last October, the situation we have today is a result of our media ownership rules, and those rules have not worked. We must try something new. Today, the Commission does just that, as we set up the parameters for a radio incubator program. First, I want to thank the Chairman for recognizing in the item that although our incubator program will offer reward waivers from certain aspects of our Local Radio Ownership Rule, including the AM/FM subcap, nothing in this item precludes the Commission from reconsidering these rules in future items. Specifically, sometime this year the Commission will launch our 2018 Quadrennial Review. In that review, I will pursue an elimination or at least to drastically lift, our AM/FM subcap restrictions. This item specifically confirms that our decision today does not prejudge or speak to whether the current Local Radio Ownership Rule will be maintained or modified as a result of this review. We successfully eliminated the Newspaper/Broadcast Cross-Ownership rule in November, perhaps a decade too late. We cannot rest on our laurels by maintaining the same regulatory climate for radio that helped seal the fate of many newspapers.

Next, I want to thank the Chairman for reversing the draft's policy position on transferability. I believe that preventing the reward waiver from being freely transferable would harm participation rates and undermines sound policy. Once the incubator earns the benefit from a successful incubation, the reward waiver should apply, period. It should not matter which station owner ultimately receives the benefit, as it should not artificially expire if the station is sold to another individual. This was an important edit, and again demonstrates that, despite making our drafts publicly available in advance of our meetings, significant edits can still occur prior to our final approval of the items.

Finally, I thank my colleagues for accepting other minor edits I proposed, including jettisoning the use of delegated authority and clarifying the Commission's views on the previous success rate of tax certificates. I am aware that some have suggested that we include a recommendation in our item that Congress adopt tax relief for incubation as an alternative to ownership waivers. Such an edit would do nothing but cause extensive delay and a further continuation of the tragically low diversity ownership rate in the broadcast space. I also was unable to support altering the comparable markets algorithm to disallow comparability more than five market rank sizes removed in either direction from the incubated station's market. This is an overly complex alternative that I fear will restrict participation in our program. Finally, I could not support any report to Congress that revisits the Overcoming Disadvantages Preference (ODP) concept as it is constitutionally flawed and more than problematic to implement.

I truly hope that the incubation program we launch today is a success. I must admit that some questions do remain. For example, I wonder what will happen to incubators who take on an incubatee

that is less than stellar. Will they be forced into pouring resources into a company that simply cannot get off the ground? There is no easy answer for this, other than the need for incubators to choose their incubatees wisely. Time will tell how much of a factor this becomes. I approve.