

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY
APPROVING IN PART, DISSENTING IN PART**

Re: Access to Telecommunication Equipment and Services by Persons with Disabilities, CG Docket No. 13-46, Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets, WT Docket No. 07-250; Comment Sought on 2010 Review of Hearing Aid Compatibility Regulations, WT Docket No. 10-254, Report and Order and Order on Reconsideration.

For the millions of individuals with hearing loss, there are statutory obligations imposed on communications providers and equipment manufacturers “to ensure reasonable access to telephone service,” which extends to many modern communications technologies.¹ Accordingly, I generally support most of the provisions within today's item.

I must reiterate, however, that I do not support adopting standards in our rules. Just because we have done it before doesn't mean that we should continue to do so going forward. While they can sometimes be effectively used as a safe harbor, standards set by appropriate industry bodies should be allowed to evolve without Commission involvement or approval, and stakeholders should be able to use updated standards, when appropriate, without waiting for Commission action.

In this vein, the Commission should not adopt rules without providing industry an opportunity to voluntarily implement a standard that could potentially eliminate the problem we are trying to solve. Today's item recognizes that industry is working on a standard for wireless volume control. So, I must ask: why are we implementing rules now? In fact, this standard was recently voted on earlier this month and is close to being finalized. While some may argue that the Commission has been contemplating action on and off for a while, we should allow industry to implement this standard and then see if there is evidence that problems persist. Only at that point would adopting rules be appropriate. Further, I also disagree with the clearly stated intention to codify this standard at a later date.²

For this reason, I dissent, in part, on mandating wireless volume control. Instead, the Commission should seek comment on this new standard and refresh the record on this topic. In fact, one survey shows that, while 27 to 29 percent of people are dissatisfied, 50 percent of the hearing-impaired respondents were satisfied or very satisfied with the volume on their cell phones. But, in regulating, we rely solely on the up to 29 percent who were dissatisfied in this one 2014 report; we don't have more current information.

Similarly, if we do not have sufficient information in the record, the Commission should perform the analysis or request the submission of further data regarding the costs and benefits of our regulations. A conclusory sentence that the benefits, “while not fully quantified, are sufficient to justify the adoption of a volume control rule” is not a cost-benefit analysis.³ In this case, it is likely that better information about costs and benefits are available now that there is a proposed standard. For this reason, before regulating, the Commission should seek further information on this standard – whether it is necessary to mandate wireless volume control and the costs and benefits of doing so.

¹ 47 C.F.R. § 610(a), (b) (applying to “[a]ll customer premises equipment used with advanced communications services that is designed to provide 2-way voice communication via a built-in speaker intended to be held to the ear in a manner functionally equivalent to a telephone....”).

² *Supra* ¶ 30.

³ *Supra* ¶ 28.

Finally, today's item includes suggestions of what the already-created wireless volume control standard "could include." I don't support the inclusion of this language, even as pared down from the original posted draft. The Commission should not influence the standards setting process in any way.