**STATEMENT OF
CHAIRMAN AJIT PAI**

Re: *Improving Competitive Broadband Access to Multiple Tenant Environments*, GN Docket No. 17-142; *Petition for Preemption of Article 52 of the San Francisco Police Code Filed by the Multifamily Broadband Council*, MB Docket No. 17-91.

Most Americans probably aren't familiar with the acronym MTE. But I'll bet the vast majority of us has lived or worked in an MTE at some point in our lives. At the FCC, MTE stands for "multiple tenant environments." These are the apartments, condominiums, and office buildings that a substantial percentage of Americans live or work in every day. As part of our efforts to close the digital divide, then, the FCC must take steps to promote the deployment of high-speed broadband to residents of MTEs.

This kind of deployment presents unique challenges, however. To provide service, broadband providers must have *access* to potential customers in the building. But when they know that they will have to *share* the communications facilities that they install with their competitors, they're less likely to make the effort in the first place. For similar reasons, you'd be less likely to build a home at your own expense if you knew it could easily become someone else's castle.

So for decades, Congress and the Commission have encouraged facilities-based competition by broadly promoting access to customers and infrastructure—including MTEs and their occupants—while avoiding overly burdensome sharing mandates that reduce incentives to invest.

With these principles in mind, we take several steps today to promote facilities-based broadband deployment and greater consumer choice for Americans living and working in MTEs. *First*, in this *Notice of Proposed Rulemaking*, we ask for public input on actions the FCC could take to accelerate the deployment of next-generation networks and services within MTEs. More specifically, we refresh the record in the Commission's 2017 *MTE Notice of Inquiry* and seek further targeted comment on a variety of issues with the goal of increasing broadband competition and deployment in MTEs. These include revenue sharing agreements between building owners and broadband providers, exclusivity agreements regarding rooftop facilities, and exclusive wiring arrangements.

Second, in the accompanying *Declaratory Ruling*, we clarify that the FCC welcomes state and local efforts to increase *access* to MTEs, so long as those efforts are consistent with federal law and policy. At the same time, we preempt an outlier San Francisco ordinance to the extent it requires *sharing of in-use wiring* in MTEs. We do so on several grounds. One is that an in-use wire sharing requirement is inconsistent with the federal policy of promoting facilities-based competition as a means of encouraging broadband deployment and investment. In fact, record evidence shows that the ambiguity alone over whether the ordinance requires in-use wire sharing has already chilled broadband investment in San Francisco. Mill Creek Residential Trust, which owns several buildings in San Francisco and allows as many as six service providers in a single building, commented that "since the passage of Article 52, the market has changed in San Francisco" and detailed how several providers have changed their policies and now refuse to install inside wiring.[1]

Unsurprisingly, some oppose our decision to preempt today. I would say that they are making a mountain out of a molehill, but in reality, there isn't even a molehill here. Throughout this proceeding, the City of San Francisco has failed to mount any defense whatsoever of requiring the sharing of in-use wiring. Yet before I circulated this draft Declaratory Ruling to my colleagues three weeks ago, the city *also* refused to say that its ordinance *didn't* mandate the sharing of in-use wiring. Indeed, it was only last

---

[1] Mill Creek Residential Trust Reply Comments, MB Docket No. 17-91, at 2-5 (filed June 9, 2017).

week that the city finally stopped playing games with this Schrödinger's cat of an ordinance and belatedly claimed that its ordinance "does not require sharing of 'in-use' wiring."[2]

The language of the ordinance itself suggests otherwise. But if the city is correct, then there is no reason for it—or anyone else—to object to our narrow ruling today. It is difficult to understand how anyone could be harmed by a decision to preempt a city mandate that the city itself claims doesn't exist. And if the city isn't correct—if the ordinance does indeed require the sharing of in-use wiring—then it is also difficult to understand how the city—or anyone else—could object to our ruling. After all, the city has had every opportunity to mount a substantive defense of an in-use wiring sharing mandate and has utterly failed to do so. In the end, all of this suggests that the opposition here is driven not by the facts or the law, but instead that crassest impulse in politics: "if he's for it, I'm against it."

For their outstanding work on behalf of consumers living in MTEs, I'd like to thank Pam Arluk, Annick Banoun, Allison Baker, Michele Berlove, Matt Collins, Adam Copeland, Justin Faulb, Jesse Goodwin, Dan Kahn, Melissa Kirkel, Ed Krachmer, Kris Monteith, Ramesh Nagarajan, Terri Natoli, and John Visclosky from the Wireline Competition Bureau; Michelle Carey, Martha Heller, Paul Jackson, and Brendan Murray from the Media Bureau; Paul D'Ari, Garnet Hanly, and Jiaming Shang from the Wireless Telecommunications Bureau; Malena Barzilai, Ashley Boizelle, David Konczal, Rick Mallen, Scott Noveck, Linda Oliver, and Royce Sherlock from the Office of General Counsel; Joseph Calascione, Tavi Carare, Steven Kauffman, Susan Lee, Giulia McHenry, Eric Ralph, and Emily Talaga from the Office of Economics and Analytics; and Maura McGowan and Sanford Williams from the Office of Communications Business Opportunities.

---

[2] Letter from Dennis J. Herrera, City Attorney, City and County of San Francisco, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 17-142, MB Docket No. 17-91, Attachment, at 1 (filed July 2, 2019), https://ecfsapi.fcc.gov/file/1070278322780/CCSFExparte.pdf.