

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Small Business Exemption From Open Internet Enhanced Transparency Requirements*, GN Docket No. 14-28

This item establishes a sensible and soundly justifiable exemption for small Internet Service Providers (ISPs) from unnecessary and expensive so-called “enhanced transparency” reporting mandates. It sets the threshold at a reasonable level of 250,000 broadband customers, which is a lower number than many, including myself, would have preferred.

Some may try to critique the threshold level as too generous or excluding too many broadband companies. These arguments ultimately fail for numerous reasons. It is important to note that the item conforms to compromises contained in both bipartisan House and Senate legislation on the topic. On that point, the respective legislation passed the House by voice vote – meaning every Republican and Democrat supported it. If any single Member of the House had any objection, they were free to raise it, but they did not. While some complain that too few subjects can find common ground in such a legislatively charged environment, this bill did – and did so spectacularly. Again, bipartisan approval was had on a voice vote. Admittedly, House passage alone does not make law, but it does provide a very good indication that the level we are setting is exceptionally rational.

In terms of substance, the Commission previously approved a level of 100,000 subscribers. Thus, any disagreement with this item is really over exempting those companies between 100,000 and 250,000. But, the data show that approximately 17 total wireline and wireless companies nationwide have customer levels between these points – and none with vast coverage areas or market share. So, this is far, far from providing big broadband companies with an exemption. Moreover, no one has been able to make a viable case as to why any of the specific companies that fall between the 100,000 and 250,000 subscriber thresholds are so different or have distinguishable features to justify disparate treatment or these added burdens.

Similarly, the argument may be made that absent these reporting mandates, consumers of smaller ISPs will be without the necessary information to make a thoughtful decision. In essence, they argue that consumers would ultimately be hoodwinked into becoming subscribers. This is pure hyperbole. Smaller ISPs generally make much, if not all, of the commercially available data points freely and openly available to prospective customers. What they rightfully object to is the Commission’s heavy-handed and expensive data collection and reporting mandates, including the specified form of disclosure and specific deadlines.

In the end, this is a balanced effort to find an acceptable and defensible landing spot. But to be clear, it doesn’t address a far more fundamental matter: whether these reporting requirements should exist at all. That will have to wait for another day in the near future.

I thank the Chairman for his leadership and diligence on this effort and look forward to working with him to bring greater sanity to our rules.