

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Restoring Internet Freedom*, WC Docket No. 17-108.

Today we formally initiate the proceeding to consider reversing the 2015 *Net Neutrality Order*. I dissented from that prior decision because I was not persuaded, based on the record before us, that there was evidence of harm to businesses or consumers that warranted the adoption of net neutrality rules, much less the imposition of heavy handed Title II regulation on broadband providers. Now that we are commencing a new proceeding, I will once again fulfill my obligation under the Administrative Procedure Act. While I certainly have my views on the topic, I restate my approach to look to the law, the necessity for any rules and record of substantive comments that accumulates. Thankfully, our rulemaking process is not decided like a Dancing with the Stars contest, since counts of comments submitted have only so much value.

At the outset, I want to commend the Chairman for his leadership and staff for their excellent work on this item. This proceeding is being conducted in an open and transparent manner, and all interested parties will have a full and fair opportunity to present comments, data, and analysis. One of the reasons why I welcome the opportunity to revisit these rules is that the prior Commission changed course so abruptly that it did not take the time to sufficiently examine the law and record and did not adequately respond to opposing viewpoints and alternative proposals. This time, I am confident that whether you agree or disagree on the need for net neutrality rules or our legal authority, you will see an order that fully and fairly responds to all substantive arguments.

To help bring order and rigor to the debate to come, the Notice proposes to conduct an actual cost benefit analysis. This is a critical improvement. Instead of operating in an “economics free zone” where the benefits of rules are assumed to outweigh any costs, commenters will need to provide evidence to support their arguments that rules are, or are not, needed. It will enable the Commission to ground its decision in facts rather than hypotheticals.

The Notice also asks a full range of questions on the proper legal classification of broadband Internet access service. These include critical questions that should have been explored and answered by the Commission before it barreled down the Title II path, disavowing decades of precedent and contrary interpretations that stood in its way. Now the Commission presents the case that it previously ignored – that the text of the Act, Commission precedent, and public policy support classification of broadband Internet access service as an information service.

My primary goal with respect to this Notice has been to ensure that the Commission asks sufficient questions to lay the groundwork for a legally sustainable final decision. Accordingly, any issue that is related to this proceeding and could be part of the decision should be on the table here. One such issue concerns jurisdiction over broadband Internet access service. If the Commission decides that it is an interstate information service, then states and localities should be foreclosed from regulating it, as some states are currently attempting to do with new broadband privacy laws, fees, approval processes, and other requirements. I thank the Chairman for working with me by including a question to enable parties to submit comments and proposals on this issue.

I vote to approve.