

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, MB Docket No. 11-43

I will support this increase in the number of hours of video described programming required, as the Commission is doing so within the scope of the limited authority granted to us under the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA). The previous Commission's proposal to increase the number of included networks has no basis in the statute,¹ and was correctly excluded from this *Order*.

Video description in programming has been found by some to be a useful improvement for those visually impaired Americans. At the same time, I am left disappointed by the cost benefit analysis included. Although it is beefed up somewhat from the analysis provided in the *NPRM*, I believe we should be able to make a better case to quantify the benefits to justify expanding the rules.

Additionally, the Commission should be adopting a real safe harbor, as opposed to a case-by-case waiver approach, to provide certainty for programmers with business models that deviate from a standard mixture of original, live, and repeat content. Equally concerning is the presumable new standard for obtaining a waiver of the description obligations. To include an absolute like "all" in the first prong strongly signals the little chance that true analysis will be conducted or a waiver ever be granted.

¹ In fact, this proposal was specifically rejected by Congress. As I pointed out at the *NPRM* stage, the House version of the CVAA gave the Commission authority to increase the number of included networks, but this provision was removed from the final version enacted into law. See H.R. Rep. No. 111-563 (2010).