

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Leased Commercial Access*, MB Docket No. 07-42; *Modernization of Media Regulation Initiative*, MB Docket No. 17-105.

This Order vacates the Commission's 2008 *Leased Access Order*, updates the existing leased access rules, and expresses the Commission's view that the video marketplace has changed dramatically in recent years, with a wide variety of media platforms available for content creators to utilize for program distribution. In particular, I am pleased to see the Commission affirm that over-the-top providers and other digital avenues are substitutes for traditional video distribution. This is a viewpoint I have long advocated, and one that I expect to inform the Commission's media regulations going forward.

Regarding the specifics of the item, I believe eliminating part-time access and requiring that cable operators only respond to bona fide requests will go a long way in cleaning up the operation of this statutory mandate and may provide the Congress with a compelling reason to revisit, or even repeal, the current statute. At a minimum, the rules adopted today will help cover the costs borne by operators that must respond to requests. As I've noted before, I'm not sure there ever was a golden age of leased access, but the Commission did regulate in this arena pursuant to Congressional direction. Today, we are at least moving the needle in the right direction by helping to relieve the administrative burden of rules that have certainly outlived their usefulness.

Finally, as we continue to solicit feedback in the Second FNPRM, I will be particularly interested in reviewing the record that is developed around the question of whether leased access can further withstand First Amendment scrutiny. While there were questions over the constitutionality of the original mandate at its inception, certainly the state of today's video programming marketplace raises heightened constitutional concerns. This is additionally relevant in the broader context of video regulation, beyond just leased access. In sum, I appreciate the substantial portions of the Order dedicated to discussing the current video marketplace and expect continued conversation on this point with corresponding further action.

I approve.