

**STATEMENT OF  
COMMISSIONER JESSICA ROSENWORCEL  
APPROVING IN PART AND DISSENTING IN PART**

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

In the Cable Communications Policy Act, Congress charged the Federal Communications Commission with promoting “competition in the delivery of diverse sources of video programming and to assure that the widest possible diversity of information sources are made available to the public.” These are the values that this agency has a duty to uphold and protect. They are the ones that inspired our leased access policies. But those leased access policies have long been stuck in regulatory limbo. For more than a decade, they have been stayed by the courts and stymied by data collection at the Office of Management and Budget.

It is time for a reboot. So I support our effort to do so today. But I have some concern about how we proceed, because we have set the bar for leased access in a higher place and have loaded it down with new requirements like deposits and full-time capacity channel purchases. Going forward, we will need to monitor how this new set of policies work in practice so that we can be sure they are living up to our statutory responsibilities.

Moreover, on the way to this outcome, I think this decision fundamentally misinterprets the First Amendment values that support our leased access rules. In fact, I think the language in this order dismissing the constitutional foundation of our rules is overbroad and wrong—and I dissent in this respect.

The First Amendment does more than protect the interests of corporations. As courts have long recognized, it is a force to support individual interest in self-expression and the right of the public to receive information and ideas. As Justice Black so eloquently put it, “the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public.” Our leased access rules provide opportunity for civic participation. They enhance the marketplace of ideas by increasing the number of speakers and the variety of viewpoints. They help preserve the possibility of a diverse, pluralistic medium—just as Congress called for the Cable Communications Policy Act.

The proper inquiry then, is not simply whether corporations providing channel capacity have First Amendment rights, but whether this law abridges expression that the First Amendment was meant to protect. Here, our leased access rules are not content-based and their purpose and effect is to promote free speech. Moreover, they accomplish this in a narrowly-tailored way that does not substantially burden more speech than is necessary to further important interests. In other words, they are not at odds with the First Amendment, but instead help effectuate its purpose for all of us.