

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY**

Re: *Improving Competitive Broadband Access to Multiple Tenant Environments*, GN Docket No. 17-142; *Petition for Preemption of Article 52 of the San Francisco Police Code Filed by the Multifamily Broadband Council*, MB Docket No. 17-91.

For years, I have been a loud and persistent voice in urging the Commission to take action against harmful state and local barriers to the deployment of broadband and other communications services—even using the unspeakable word, “preemption.” Today’s item complements that call to action and, aside from a couple of concerns, I am generally supportive of it.

While the preemption decision in the Declaratory Ruling is completely warranted, I am somewhat troubled by certain language that seems to endorse state and local experimentation regarding policies to allegedly promote competition in MTEs. In addition to the fact that broadband Internet is fundamentally an interstate service, and not the appropriate subject of state and local regulatory experimentation, a patchwork of regulation is extremely burdensome for providers and undermines investment. Further, support for experimentation does not match well with our approach in the broadband infrastructure context, where we have made considerable progress in response to state and local overreach.

As for the NPRM portion, I am concerned about our legal basis to require the disclosure of or restrict the use of revenue sharing agreements for Internet service providers that are not telecommunications providers under Title II or cable operators under Title VI. In the absence of such authority—which I am having difficulty squaring with the law—we run the risk of imposing asymmetrical regulations to competitors in the same MTE marketplace, a problem that the current Commission has worked diligently to eliminate in various other proceedings. Thus, I thank the Chairman for working with my office to add questions to the draft on our legal authority for imposing new rules on the entire universe of Internet service providers.

Despite these rather minor points, I support our decision to preempt the San Francisco ordinance to the extent that it requires the sharing of in-use wiring and vote to approve.