STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY

Re: *Complaints Involving the Political Files of WCNC-TV, Inc., licensee of Station WCNC-TV, Charlotte, NC, et al.; Complaints Involving the Political Files of Scripps Broadcasting Holdings, LLC, licensee of Station WCPO-TV, Cincinnati, OH; Complaints Involving the Political Files of Meredith Corporation, Licensee of Station WPCH-TV, Atlanta, GA, and Georgia Television, LLC, licensee of Station WSB-TV, Atlanta, GA*, MB Docket No. 19-363, Order on Reconsideration.

Political speech and its transmission to the American people are incredibly important issues for me. Like many defenders of the First Amendment, I fundamentally agree with an approach that places very few restrictions on the practice of either. This is a founding principle of our country, and as such, government regulators must tread very lightly when it comes to compelling or restraining the speech of private entities, especially when it comes to the transmission of political speech to the American people via broadcast or other telecommunications services, a point I raised in another proceeding earlier this year as well. Notwithstanding these protections, the Commission is required to implement certain political ad disclosure requirements enacted by Congress and sustained by the courts. The tension between these two obligations deserves a much larger and detailed discussion, and there are serious questions as to whether these burdens on broadcasters continue to pass constitutional muster. However, these are matters for another time and worthy of deeper discussion than is warranted here.

I wholeheartedly support this item because it effectively narrows the scope—and thus the legal exposure for well-meaning local broadcasters—of our recent October 2019 items that "clarify" our political file mandates. At the time, I was reluctant to approve those actions, and only voted to concur after extensive work over the course of more than a year to remove some the items' more onerous and objectionable draft provisions. While I was willing to stomach the end result, it remains flawed in many respects as well as constitutionally suspect. Many of the arguments and objections raised by petitioners to the October items are ones I raised during the Commission's consideration of them, but my arguments at the time simply did not carry the day. And, that's not to mention the major procedural concerns I had. In bypassing our regular Notice and Comment process, we effectively prevented *ex parte* conversations with all affected broadcasters, who had little to no knowledge of the end result's content or breadth, and they were not permitted to provide counterarguments or properly challenge the conclusions before the items were finalized.

This item makes a modicum of improvement to the whole mess and provides parties with more certainty as they anticipate a very busy election ad season. Not surprisingly, I suspect that we will have to revisit this issue again, and those potentially captured in this web of compelled speech should know that I intend to be appropriately suspicious of any draft FCC enforcement effort on this matter. The First Amendment protections afforded all Americans apply no less when it comes to our nation's media companies that communicate information and ideas.