

**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 moving forward with another rulemaking to implement certain provisions of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), but I would like to highlight a few brief points. First, as I have noted in previous CVAA-related items, it is important that our regulations adhere to the proper scope of authority granted to the Commission under the law. To change the regulatory term “video description” to “audio description” may seem like a small, and even widely-agreed upon, modification, but the implications of making such a change should be acknowledged. Is regulatory fiat greater than the law? Or should we rely on Congress to update the law where needed? Reasonable minds often differ as to the interpretation of a statute, but when the text is clear and unambiguous, attempting to “modernize” the operative legal terms could lead us down a slippery slope if the practice is not limited to only the most mundane and limited cases, as I hope is the case here.

Second, whenever the Commission has considered what many find to be useful improvements for visually impaired Americans under the CVAA, I have sought to remind the Commission that, while such audio streams may be useful, they do come at a cost. In this instance, consider the “covered broadcasters” that have some of the needed equipment in place, but that may face additional, less apparent, costs in making more content descriptions available. Indeed, while a cost-benefit analysis is always necessary to inform whether the benefits of a regulatory mandate may outweigh its costs, making these calculations is especially critical now, given the pandemic and the incredible toll it is taking on the broadcast industry, with many strapped for cash or going broke as the advertising marketplace dries up due to COVID-19. Yet most broadcasters are continuing to provide a full slate of local news to keep their communities safe and informed, including in the smaller markets. To be fair, in certain paragraphs of this item we do seek comment on how the pandemic should factor into specific proposals, and this is important. But, as we move forward with adding further requirements to smaller market stations while other segments of the broader video content industry do not face similar, heightened mandates, I would encourage all of us to be mindful of these costs and how they should inform the entire effort.