Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Improving Competitive Broadband Access to	)	GN Docket No. 17-142
Multiple Tenant Environments	)	

FURTHER COMMENTS OF NCTA – THE INTERNET & TELEVISION ASSOCIATION

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October 20, 2021

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NCTA – The Internet & Television Association ("NCTA") submits these comments in response to the *Public Notice* seeking to refresh the record in the above-captioned docket.[1]

I. INTRODUCTION AND SUMMARY

The past two years have highlighted the importance of broadband in daily life for everything from work, school, and healthcare to shopping, entertainment, and keeping in touch with friends and family. The cable industry is proud of the substantial investments it has made over the last two decades, which have enabled Americans to stay connected. Today, cable networks make robust broadband connectivity available to approximately 90% of U.S. households, including millions of Americans living and working in MTEs.

[1] *See Wireline Competition Bureau Seeks to Refresh the Record on Improving Competitive Broadband Access in Multiple Tenant Environments*, Public Notice, GN Docket No. 17-142, DA 21-1114 (rel. Sept. 7, 2021) ("*Public Notice*"); *Improving Competitive Broadband Access to Multiple Tenant Environments; Petition for Preemption of Article 52 of the San Francisco Police Code Filed by the Multifamily Broadband Council*, Notice of Proposed Rulemaking and Declaratory Ruling, 34 FCC Rcd. 5702 (2019) ("*NPRM*").

As the Commission has recognized, MTEs "present unique challenges to broadband deployment."[2] Despite these complexities, the record in this proceeding confirms that deployment, competition, and consumer choice in MTEs are strong. Broadband providers and building owners have overcome the challenges of deployment in MTEs with pro-consumer arrangements that account for the particular circumstances of each building and enable providers to offer services at competitive rates, while at the same time recovering their substantial investments. The Commission can and should "facilitate enhanced deployment and greater consumer choice"[3] by extending its ban on exclusive MTE *access* to all providers. By contrast, impeding or restricting other arrangements between broadband providers and building owners, including term wiring,[4] revenue sharing, and exclusive marketing agreements, will jeopardize rather than enhance the availability of advanced broadband to MTE tenants.[5]

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[2] *NPRM* ¶ 1.

[3] *Id.* ¶ 14.

[4] Term wiring agreements – typically referred to by the Commission as "exclusive wiring" agreements – are agreements between an MTE and service provider pursuant to which the service provider has exclusive use, for a term of years, to wiring it (or the building owner) has installed in the MTE, generally in exchange for installing, maintaining and/or repairing the wiring. Such agreements do not preclude a building owner from permitting other service providers to install and use their own wiring in the same MTE.

[5] NCTA's comments focus on these issues as they are directly raised in the *Public Notice*. However, the Commission should also refrain from interfering with bulk billing arrangements. As the Commission has previously found, these arrangements benefit consumers by enabling providers to offer service at significantly discounted rates. *See Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments*, Second Report and Order, 25 FCC Rcd. 2460, ¶ 10 (2010) ("*2010 Exclusive Contracts Order*") (finding that bulk billing "benefits many MDU residents overall, especially by significantly lowering prices"); *see also* NCTA Notice of Inquiry Comments at 5-6 (filed July 24, 2017). All comments cited herein were filed in GN Docket No. 17-142. Initial comments were filed on August 30, 2019 and reply comments on September 30, 2019 unless otherwise noted.

II. PROHIBITING ALL BROADBAND PROVIDERS FROM ENTERING INTO EXCLUSIVE ACCESS AGREEMENTS WOULD PROMOTE COMPETITION

The Commission's current rules recognize the harms stemming from exclusive access agreements and prohibit telecommunications carriers and certain MVPDs[6] from entering into them. However, the rules do not similarly restrict DBS and broadband-only providers. To promote competition, deployment, and consumer choice, the Commission can and should bar *all* wireless and wireline broadband providers from entering into MTE exclusive access agreements.

A. Extending the exclusive access prohibition to all broadband providers will advance the Commission's goals.

As the Commission has determined, exclusive access agreements "cause significant harm to competition and consumers."[7] By barring competitors from entering a building, exclusive access clauses "discourage the deployment of broadband facilities to American consumers"[8] and "deny consumers . . . the benefits that could flow to them" while "confer[ing] few, if any, benefits on those consumers."[9] As NCTA has explained, this is true regardless of the classification of the provider.[10] The Commission's rules, however, place prohibitions only on certain MVPDs and telecommunications carriers,[11] leaving DBS and broadband-only providers free to cut off competition and consumer choice in MTEs, an outcome contrary to the public

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[6] Specifically, cable operators; common carriers or their affiliates that provide video programming directly to subscribers; and operators of open video systems.

[7] *Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd. 20235, ¶ 26 (2007) ("*2007 Exclusive Contracts Order*").

[8] *Id*. ¶ 16.

[9] *Id.* ¶ 19.

[10] *See* NCTA Comments at 11-12.

[11] The rules bar covered MVPDs from entering into exclusive access agreements in residential MTEs and telecommunications carriers from entering into exclusive access agreements in residential and commercial MTEs.

interest. In addition, this regulatory disparity skews the marketplace, inhibiting full and fair competition to the further detriment of consumers.

The Commission should therefore extend the prohibition on exclusive access to all providers of broadband service in MTEs and to all parts of MTEs, including rooftops. Extending exclusive access prohibitions—and abrogating existing exclusive access agreements, as the Commission did when it prohibited exclusive access contracts for covered MVPDs and telecommunications carriers[12]—will ensure that no broadband provider is able to deny building access to competing providers, thereby granting consumers greater access to the benefits of full competition.

B. Extending the exclusive access prohibition to all broadband providers is within the Commission's authority.

The Commission has ancillary authority to extend the exclusive access prohibition to all broadband providers. Courts have held that the Commission may exercise ancillary jurisdiction when two conditions are satisfied: "(1) the Commission's general jurisdictional grant under Title I [of the Communications Act] covers the regulated subject and (2) the regulations are reasonably ancillary to the Commission's effective performance of its statutorily mandated responsibilities."[13] Extending the exclusivity ban to all broadband providers satisfies these conditions.

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[12] *2007 Exclusive Contracts Order* ¶ 30; *Promotion of Competitive Networks in Local Telcoms. Mkts*., 23 FCC Rcd 5385, ¶ 16 (2008).

[13] *Comcast Corp. v. FCC*, 600 F.3d 642 (D.C. Cir 2010), *citing American Library Ass'n v. FCC*, 406 F.3d 689, 691-92 (D.C. Cir. 2005). For DBS providers, the Commission also has authority under Section 335 of the Act. *See* 47 U.S.C. § 335 (granting the Commission authority "to impose, on providers of direct broadcast satellite service, public interest or other requirements for providing video programming").

There is no question as to the first condition—Title I of the Act covers broadband. With regard to the second, extending the ban on exclusive MTE access to broadband providers is reasonably ancillary to the performance of the Commission's responsibilities under two different provisions of the Communications Act under which the Commission regulates MTE access by telecommunications carriers and MVPDs, respectively: Section 201(b) and Section 628(b). Notably, the existing MVPD exclusivity ban already covers broadband services that are packaged with video services: That ban prohibits covered MVPDs from executing or enforcing contracts that give them the exclusive right to provide video programming services "alone or in combination with other services" to residential MTEs.[14]

Extending the ban on exclusive MTE access to all broadband providers will ensure that the Commission's goals of a competitive market for MTEs are applied equally, and not just to broadband providers whose facilities are also subject to the MTE exclusivity ban because those facilities are used to provide telecommunications service or cable service as well as broadband. Moreover, and as discussed above, unequal treatment of broadband providers undermines the efficacy and fairness of the Commission's regulation of carriers and MVPDs by putting them at a competitive disadvantage. To avoid this result, "the successful performance of [the Commission's] duties" regarding telecommunications carrier and MVPDs therefore "demands prompt and efficacious regulation" of all broadband providers.[15]

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[14] *2007 Exclusive Service Contracts Order* ¶ 40; *aff'd NCTA v FCC,* 567 F.3d 659, 666 (DC Cir. 2009) (concluding "that Section 628(b) authorizes the Commission's action" in the *2007 Exclusive Service Contracts Order).* The existing telecommunications carrier exclusivity ban similarly prevents a common carrier that packages broadband with telecommunications service from prohibiting MTE access to another carrier offering the same. *See, e.g.,* 47 C.F.R. § 64.2500(b) ("No common carrier shall enter into or enforce any contract . . . that would in any way restrict the right of any residential multiunit premises owner, or any agent or representative thereof, to permit any other common carrier to access and serve residential tenants on that premises.").

[15] *Cf. United States v. Southwestern Cable Co*., 392 U.S. 157, 177 (1968).

III. GIVEN THE CURRENT COMPETITIVE MTE ENVIRONMENT, THE COMMISSION SHOULD CONTINUE TO PERMIT TERM WIRING AGREEMENTS, INCLUDING SALE AND LEASEBACK AGREEMENTS.

The Commission previously found that term wiring agreements do not hinder competition because they do not deny new entrants access to MTEs.[16] Indeed, the market has only grown more competitive since the Commission's finding. As explained in the record in this proceeding, two or more providers have installed wiring in more than three-quarters of MTEs, and that figure continues to grow.

Far from hindering choice, such wiring arrangements promote true competition for voice, video, and broadband service by giving a provider a reasonable period of time to recover the significant investments it must make to install, maintain, and service the wiring. The benefits of such arrangements are as true for cable operators and their customers as they are for other providers who have installed their own wiring in MTEs. Under a term wiring arrangement, the service provider seeking to serve an MTE executes an agreement with the property owner for the construction of wiring in the building and the use of that wiring for a term of years. At the end of the term, the property owner can decide whether it wants to continue to allow the initial provider to use those wires to serve the building, or enter into an agreement with another provider to take over use of the wiring. It bears emphasis that term wiring agreements do not preclude the building owner from allowing multiple providers to serve the MTE with their own wiring, as is increasingly the case in this competitive environment.

[16] *2007 Exclusive Contracts Order* ¶ 1 n.2 (concluding that exclusive wiring agreements do not "deny new entrants access to [residential MTEs] or real estate developments").

A. Term wiring agreements are pro-competitive.

As NCTA has explained, wiring an MTE, or upgrading existing wiring, is more costly and complex than wiring more traditional residential settings.[17] For instance, service providers in MTEs generally incur costs for inside wiring, line extensions (potentially including new nodes or other plant elements), maintenance and security of the plant and network, managed Wi-Fi, and dedicated customer service for MTEs. Term wiring agreements give service providers, who must spend significant sums installing, maintaining, and repairing MTE facilities, a measure of certainty that they will have the opportunity to recover their investments by retaining for a set period exclusive use of those wires to provide service to an MTE's residents and tenants. These arrangements also ensure that service providers can recoup their costs if they construct wiring for building owners that lack the requisite expertise or funds to install and maintain complex wiring systems. In the absence of such arrangements, service providers face the risk that their plant could be commandeered for the benefit of a competitor before the provider has recouped its investment in the facilities.

A service provider would be substantially less likely to invest in MTE wiring and the associated repair and maintenance if the same wiring could be used, in whole or in part, by a competitor and thereby frustrate the investing service provider's ability to generate a return on its investment. This creates a first-mover—or first-investor—*dis*advantage for service providers that could inhibit broadband deployment in MTEs. Term wiring arrangements *encourage*

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[17] *See* NCTA Comments at 4 ("[D]eploying this wiring in a new building or upgrading existing wiring in an old building is a significant expense. In many cases, especially in older MTEs that were not pre-wired for modern digital video and high-speed broadband services, the high upfront cost to building owners of installing this wiring is the greatest impediment to making broadband available in a building."); *see also NPRM* ¶ 1 ("[I]nstalling facilities inside MTEs is often complicated and expensive because providers must access building conduits, lay wire that can reach each unit in the building or premises, and make necessary repairs once the wiring is installed.").

deployment in MTEs by granting companies of all sizes the incentive to invest in installing new or upgrading existing wiring. Indeed, the record in this proceeding makes clear that prohibiting such agreements could force some competitive providers out of the marketplace, reducing consumer choice.[18]

Term wiring arrangements can take various forms, including sale-and-leaseback arrangements. The Commission should not interfere with these business decisions, particularly since these wiring arrangements do not preclude other providers from gaining access to a building in light of the Commission's ban on exclusive access arrangements. And as discussed below, such agreements encourage deployment of facilities-based competition by new entrants as well as new investment by legacy providers, allowing consumers to take different services from whatever provider in an MTE best suits their needs.

B. The Commission should not mandate sharing of wiring by different providers.

The *Public Notice* contrasts term wiring arrangements with "shared access to wiring and other facilities."[19] To the extent this is intended to include simultaneous sharing of in-use wiring, such simultaneous sharing of trunk and home run wiring would not be technically possible. Upstream and downstream transmissions would create interference, even with careful

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[18] *See* Multi-Family Broadband Council Comments at 11 (filed Aug. 28. 2019) (stating that "competitive service providers usually require third-party financing in order to fund construction of a property-specific network at an MTE" and explaining that lenders require proof, such as an exclusive wiring agreement, that the provider will be able to serve a sufficient number of customers to generate reliable revenue); Blue Top Communications Comments at 1 (filed Aug. 22, 2017) (discussing exclusive marketing, bulk service, revenue sharing, and exclusive wiring agreements and stating that "[w]ithout the use of these tools, Blue Top likely will not be able to compete"); *cf.* GigaMonster Reply Comments at 2-3 ("When the San Francisco Board of Supervisors enacted Article 52, GigaMonster pulled out of its initiatives to deploy its services to multifamily communities in San Francisco. Without a basic level of certainty in the market conditions—based on past results in similar communities—GigaMonster found it far too risky to deploy a high-quality fiber network in a multifamily community. A business climate that creates insurmountable risks for high capital investments only favors the largest players with deep pockets.").

[19] Public Notice at 5.

management, and this challenge would be exacerbated when the facilities are used to deliver multiple services simultaneously.[20]

Sharing (or "trading off") of wiring by competing providers when the wiring is not being used simultaneously also poses numerous technical and logistical problems that run the risk of degrading service. For instance, service providers typically use different technologies when deploying to an MTE. A traditional cable operator may use one type of fiber technology, while telcos and other providers may use different, incompatible technologies. In addition, different service providers have different ways of configuring their facilities, and a sharing requirement would result in multiple, back and forth configuration changes that would ultimately, and inevitably, degrade the quality of in-building wiring as providers cut and re-cut wiring as part of the process of deploying their own equipment and services. This would, in turn, dramatically increase the risk of service degradation. This risk would be further exacerbated by inevitable confusion as to who is maintaining the wire.

Moreover, competitive circumstances have changed considerably since the Commission adopted the existing home run wiring rules. Requiring providers to sell their home run wiring to competitors when they are still providing service in the building no longer serves the interests of consumers. First, unlike when the inside wiring rules were first adopted, a provider can now use its wire to provide multiple services, meaning that a subscriber may cancel video service from their cable provider but continue to receive broadband service. Obligating providers to trade off wire promotes an all-or-nothing approach to taking services that does not adequately serve the

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[20] If providers were forced to share a wire, frequencies would overlap for the differing providers resulting in interference both upstream and downstream, for video, voice, and control channels. *See* NCTA Comments at 10 & 11 n.23; *see also NPRM* ¶ 79 (rejecting claims that the technical harms posed by in-use wire sharing are "largely mythical" and finding that "[a]s a technical matter, simultaneous sharing of wiring is extremely difficult, if it is possible at all").

goal of advancing consumer choice, as consumers would not be able to pick and choose services from among providers if it would better serve their needs. In addition, many providers do not offer a full suite of services, and consumers might not realize that by switching to a provider offering a single type of service they will be losing access to other services they currently receive as part of a bundle.[21]

Second, the inside wiring rules were adopted before the Commission banned exclusive access to buildings. At that time, the Commission may have thought competition for a single wire was the only way to enhance competition within buildings. Now, as the record reflects, two or more providers have installed wiring in over 75% of MTEs, offering subscribers the ability to choose among two or more providers, and—in the majority of these MTEs—without the friction of having to transfer wiring from one provider to another.[22] In fact, in one large cable operator's footprint, 80% of residential MTEs with 50 or more units have at least two facilities-based broadband providers, and between 4Q2019 and 2Q2021, buildings with three or more facilities-based broadband providers increased by 106%.[23] As noted, this kind of facilities-based competition is superior and should be promoted.[24]

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[21] In addition to broadband, video, and voice services, consumers may also be getting non-communications services from a provider, such as home alarm services, that would be cut-off if the home run wiring were switched to a different provider.

[22] *See* National Multifamily Housing Council *et al.* Comments at 66 (discussing a survey of thirteen large, national apartment owners that found that approximately 76% of the properties they own had at least two wireline broadband providers); RealtyCom Partners Reply Comments at 2-3 (filed Sept. 27, 2019) (stating that 96% of its clients' 2,300 apartment communities—totaling approximately 527,000 apartment homes in 41 states—have two or more broadband providers); *id.* at 6 ("A review of our data reveals that, across all properties, exclusive use of home run wiring is granted in 66% of agreements.").

[23] The number of broadband providers in MTEs in this operator's footprint may in fact be higher, as these numbers do not take into account competition from resellers or CLECs.

[24] It bears emphasis that fixed wireless providers are also entering the MTE space, providing further competition and choice.

To the extent the Commission retains the existing inside wiring rules, it should apply them to all providers, not just those covered by the current rules. The current lack of parity could lead to the perverse circumstance of a cable operator losing a customer and being forced to sell its wiring to a competing broadband provider that is not a cable operator, then winning the customer back but not being able to demand that use of the wiring be restored to the cable operator. Such an outcome would both limit consumers' options and be unfair to the cable operator, who went to substantial expense to wire the building in the first place.

IV. THE COMMISSION SHOULD NOT UPEND REVENUE SHARING AND EXCLUSIVE MARKETING AGREEMENTS

Revenue sharing and exclusive marketing agreements benefit consumers by encouraging deployment in MTEs and reducing the costs consumers may otherwise bear. The Commission should therefore decline to prohibit or impose burdensome disclosure obligations on these agreements.

Revenue Sharing Agreements. As NCTA and others previously explained, revenue sharing agreements do not reduce incentives for building owners to grant access to competitive providers as they can simply seek similar arrangements with multiple providers, and restricting the use of revenue sharing would in no way increase a building owner's incentives to allow additional providers entry.[25] If these agreements are prohibited, building owners will find other revenue sources (such as door fees) to defray their costs, or will forgo or reduce infrastructure investment, to the detriment of MTE residents and tenants.[26]

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[25] *See, e.g.,* NCTA Comments at 7-8; NCTA Reply Comments at 6; National Multifamily Housing Council *et al.* Comments at 78-80; RealtyCom Comments at 4.

[26] *See* Letter from Matthew C. Ames, Counsel, National Multifamily Housing Council, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 17-142, at Attachment pg. 2 (filed Oct. 29, 2020) (explaining that "restricting the ability of owners to obtain compensation for infrastructure they own will simply induce owners to cut back on such investment and require providers to bear the cost

The Commission should also reject calls to require disclosure of these agreements. Commenters of all types agree that disclosure of the existence of, or details regarding, a revenue sharing arrangement would provide no meaningful information to consumers and could have the unintended effect of driving up costs to service providers and ultimately consumers.[27]

Exclusive Marketing Agreements. The Commission has rightly determined—and wisely declined to revisit in the *NPRM*—that exclusive marketing agreements benefit MTE residents and tenants.[28] In finding that the "record clearly shows that marketing exclusivity arrangements have some modest beneficial effects for consumers and no significantly harmful ones," the Commission pointed to record evidence that "the arrangements provide readily accessible information to MDU residents about an MVPD provider and allow their residents to make more informed decisions"; that "[i]n exchange for receiving marketing exclusivity, an MVPD provider may afford the MDU and its residents lower rates and other benefits"; and that the "added revenue stream that can result from marketing exclusivity may also help the MDU owner or MVPD provider obtain financing to fund the expensive wiring of an MDU building."[29]

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themselves"). The Commission should not adopt some commenters' proposals to limit revenue sharing to recovery of a building owner's costs. As NCTA previously stated, "[t]he development costs for which revenue sharing agreements provide compensation are the MTE owner's, and they are therefore outside a provider's knowledge and control. Requiring providers to somehow keep track of these costs and adjust any revenue shared accordingly would impose an expensive administrative burden on providers, the costs of which would ultimately be borne by consumers." NCTA Reply Comments at 6.

27 *See, e.g.,* NCTA Comments at 8-9; National Multifamily Housing Council *et al.* at 92 (stating that disclosure requirements "would offer little information of actual value to subscribers"); Wireless Internet Service Providers Association Reply Comments at 23-24 (disclosure "would do little, if anything, to benefit consumers," "would be difficult to enforce" and would impose an "immense burden on providers, especially small providers, to implement").

28 *See NPRM* ¶ 27 ("[T]he Commission found that exclusive marketing could lead to lower costs to subscribers or partially defray deployment costs borne by buildings, without prohibiting or significantly hindering other providers from entering the building."); *2010 Exclusive Contracts Order* ¶¶ 33-34.

29 *2010 Exclusive Contracts Order* ¶¶ 32-34

The Commission also cited comments by new entrants that "exclusive marketing arrangements are an especially valuable means of advertising for small new entrants who cannot afford high-priced mass media advertising that large incumbent cable operators and LECs regularly use" and that these arrangements "help a new entrant to overcome the greater name recognition of the entrenched incumbent cable operator."[30] It found, moreover, that "[m]arketing exclusivity does not explicitly or in practical effect bar, or significantly hinder, other MVPD providers from wiring an MDU or prevent any residents from choosing another MVPD if they do not want service from the provider that has the exclusive marketing arrangement."[31] The Commission concluded that the "balance of consumer harms and benefits for marketing exclusivity is thus significantly pro-consumer.[32] This determination remains true. In fact, the availability of other means of targeting advertising to consumers since the Commission last considered these issues makes any restrictions on marketing agreements between providers and building owners even more unnecessary today.

Some commenters have raised concerns that MTE owners and tenants are at times confused about the contents of an owner's existing agreements with providers, mistakenly believing that these agreements contain exclusive access provisions when in fact they contain only exclusive marketing provisions.[33] The Commission should reject these arguments. First, it is hard to see how MTE owners—businesses that routinely negotiate complex agreements regarding the rights and obligations associated with their buildings and property—would be confused about the Commission's rules. Indeed, comments from the real estate industry indicate

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[30] *Id.* at ¶ 34.

[31] *Id.* ¶¶ 32-33.

[32] *Id.* ¶ 37.

[33] *See, e.g.*, Crown Castle International Corp. Comments at 15; CenturyLink Comments at 9.

that MTE owners are deeply familiar with the rules and the meaning of the provisions in their agreements with broadband providers.[34]

Second, as noted above in the context of revenue sharing agreements, a disclosure requirement would not provide MTE tenants and residents with meaningful information about the broadband services available to them. Rather, any such obligation would simply impose cumbersome compliance burdens on providers, an especially unnecessary outcome given that, as noted, the ability of competing providers to reach consumers through means other than in-building advertising has only grown since the Commission last addressed this issue.[35]

CONCLUSION

NCTA appreciates the opportunity to provide an update on the MTE marketplace. To promote competition and consumer choice, the Commission should (i) bar all broadband providers in MTEs from entering into exclusive access agreements; (ii) continue to permit term

[34] *See* RealtyCom Partners Comments at 2 ("RealtyCom has seen no uncertainty among MTE owners about the distinction between exclusive marketing and exclusive access agreements."); National Multifamily Housing Council *et al.* Comments at 73 ("[O]n-site staff is aware of the differences between exclusive access agreements and exclusive marketing agreements, and they know which providers are permitted to serve their properties.").

[35] Should the Commission nonetheless impose disclosure requirements on exclusive marketing and revenue sharing agreements, it should impose the requirements on all providers of broadband in MTEs. The Commission has authority under Section 13 of the Communications Act to impose disclosure requirements on broadband providers that are not telecommunications carriers or cable operators. *See NPRM* ¶ 36; 47 U.S.C. § 163. For DBS providers, the Commission also has authority under Section 335 of the Act. *See* 47 U.S.C. § 335 (granting the Commission authority "to impose, on providers of direct broadcast satellite service, public interest or other requirements for providing video programming"). The Commission should also mandate only the disclosure of the existence of revenue sharing and exclusive marketing agreements, and not the terms and conditions of these agreements. Precise terms and conditions are competitively sensitive and are not necessary to counteract any confusion. Disclosure of terms could also drive up costs for providers—to the ultimate detriment of consumers—by giving building owners the incentive and ability to demand the most lucrative terms negotiated in the broader marketplace. *Cf. Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services*, Second Report and Order, 9 FCC Rcd. 1411, ¶¶ 177-178 (1994) (finding that, in a competitive market, even voluntary filing of tariffs by carriers could distort prices and inhibit competition).

wiring agreements, including sale-and-leaseback agreements; (iii) reassess the inside wiring rules given changes in the marketplace and technology while also ensuring parity among broadband providers; and (iv) refrain from restricting or requiring disclosure of revenue sharing and exclusive marketing agreements.

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October 20, 2021