

**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	)	
	)	
Petition for Preemption of Article 52 of the	)	
San Francisco Police Code Filed by the	)	MB Docket No. 17-91
Multifamily Broadband Council	)	
	)	

**COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION**

Competitive Carriers Association (“CCA”)<sup>1</sup> submits these comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Notice of Proposed Rulemaking (“NPRM”) seeking comment on ways to encourage facilities-based broadband deployment and competition in multiple tenant environments (“MTEs”).<sup>2</sup> For wireless broadband providers, MTEs present unique deployment challenges, because certain forms of exclusivity arrangements may foreclose competitive access and prevent customers in MTEs from enjoying the price, quality, and service benefits that flow from fair competition. To that end, CCA encourages the FCC to take steps to increase competitive access to MTE distributed antenna systems (“DAS”) and rooftops.

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<sup>1</sup> CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA also represents vendors and suppliers that serve the mobile communications supply chain.

<sup>2</sup> *Improving Competitive Broadband Access to Multiple Tenant Environments*, Notice of Proposed Rulemaking, GN Docket No. 17-142 (rel. July 12, 2019) (“NPRM”).

The Commission has taken a number of important steps in recent years to facilitate mobile broadband deployment,<sup>3</sup> and CCA encourages the FCC to seize the opportunity in this proceeding to build upon its laudable work by increasing competitive access to MTEs.<sup>4</sup> Americans continue to cut the cord and move away from landline telephones; indeed, just last month, the National Center for Health Statistics reported that 56.7% of adults now live in wireless-only households.<sup>5</sup> The network architecture upon which today's wireless services run is revolutionizing entire industries and improving consumers' quality of life across the United States, and smart siting policies can help break down technological barriers and power incredible innovations in connectivity.

Consumers in the modern age now expect to be connected anywhere and at any time, including in their homes, businesses, sports arenas, and while travelling through rural and remote areas. Yet ubiquitous mobile broadband deployment often is impeded by restrictive access to and within MTEs,<sup>6</sup> which represent a particularly "unique challenge" because providers "must

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<sup>3</sup> See, e.g., *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Second Report and Order, WT Docket No. 17-79 (rel. Mar. 30, 2018); *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Third Report and Order and Declaratory Ruling, WT Docket No. 17-79 (rel. Aug. 3, 2018); *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, WT Docket No. 17-79 (rel. Sept. 27, 2018).

<sup>4</sup> NPRM ¶ 21.

<sup>5</sup> National Center for Health Statistics, "Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July-December 2018" at 2 (rel. July 10, 2019), *available at* [https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201906.pdf?deliveryName=USCDC\\_374-DM4151](https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201906.pdf?deliveryName=USCDC_374-DM4151).

<sup>6</sup> See, e.g., Reply Comments of T-Mobile USA, Inc., GN Docket No. 17-142 (filed Aug. 22, 2017) ("T-Mobile NOI Reply Comments"); Letter from Donald L. Herman, Jr., Counsel for HTC, Herman & Whiteaker, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 17-142 (filed Sept. 14, 2017).

access building conduits, lay wire that can reach each unit in the building or premises, and make necessary repairs once the wiring is installed.”<sup>7</sup> In some circumstances, exclusivity agreements can foreclose competition because competitors have no viable alternative to the building’s facilities to serve consumers.

Today’s infrastructure includes a wide variety of deployment options, including macro towers, small cells, outdoor and indoor DAS, and Wi-Fi. In this proceeding, the record establishes that many wireless providers and infrastructure management companies “use DAS facilities within MTEs to ‘fill gaps in coverage caused by dense walls . . . and provide additional capacity’ in areas with dense concentrations of people.”<sup>8</sup> It also is noteworthy that small cells and DAS are materially different than their tower and macro predecessors, regarding both size and visual or actual impact, and thus often are deployed to bolster spotty coverage in and around MTEs.

But as the NPRM recognizes, a variety of hurdles can limit broadband deployment to MTEs and access to existing equipment like indoor DAS, including exclusive marketing and wiring arrangements, revenue sharing agreements, and state and local regulations.<sup>9</sup> In particular, exclusivity agreements between individual providers and building owners or building management firms may restrict the ability of other providers to attach to an existing DAS or deploy their own coverage solutions. CCA members also report that, even when they are permitted to access existing networks, those existing networks may be outdated, yet new entrants

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<sup>7</sup> NPRM ¶ 1.

<sup>8</sup> *Id.* ¶ 22 (*citing*, T-Mobile NOI Comments at 3).

<sup>9</sup> *Id.* ¶¶ 22-24.

are prohibited from implementing their own upgrades. In such circumstances, competitive carriers are prevented from offering MTE customers the latest technologies.<sup>10</sup>

Access to rooftops also can help to curb unnecessary fees for tower collocations and can be a near-term solution to address limited tower availability in a given area. Providers also rely on rooftops to improve backhaul for wireless services, and to deploy antennas and other requisite equipment to establish and enhance their networks.<sup>11</sup> But as the NPRM recognizes and the record in this proceeding confirms, many MTEs have rooftop exclusivity agreements that prohibit ubiquitous deployments or impose unrealistic physical limitations, with no recourse for alternative arrangements.<sup>12</sup> The Commission should therefore address certain anti-competitive deployment restrictions, and ensure that all providers have an fair opportunity to access rooftop space, subject only to competitively-neutral conditions that ensure safety and prevent damage to property. Updated policies in this context will spark competition and help to propel broadband competition to a variety of structures.

## CONCLUSION

CCA appreciates the FCC's attention to addressing current obstacles to ubiquitous broadband deployment within MTEs and related structures. Broadband connectivity is a

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<sup>10</sup> See, T-Mobile NOI Reply Comments at 3-6. Certain arrangements between building owners and neutral DAS hosts may not present the same competitive concerns when the DAS networks are genuinely open to all comers, the equipment meets the needs of competitive carriers and their customers, and the fees and conditions for access do not create an effective prohibition to competition. But the Commission should ensure that all competitive wireless carriers have access to the facilities necessary to provide service within MTEs on terms and conditions that promote, rather than inhibit, competition.

<sup>11</sup> *Id.* ¶ 21.

<sup>12</sup> *Id.* The exclusionary problems here do not necessarily arise from a building owner's decision to contract with a single manager to manage rooftop access; rather the problem arises when the owner or rooftop manager uses its control over the rooftop environment to exclude competitive broadband entrants, or extract monopoly rents to restrict broadband competition.

community investment, and CCA encourages the Commission to prevent anticompetitive restrictions on access within and on MTEs, including access to rooftops and existing equipment like DAS. Doing so will allow providers to deploy the requisite network architecture necessary to enhance and expand critical mobile broadband service to all consumers within their service footprint.

Respectfully submitted,

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August 30, 2019