

## FCC Actions Affecting Building Owners

Owners and managers of multi-tenant environments (“MTEs”), such as apartment buildings, filed initial comments in the Federal Communications Commission’s (FCC’s) proceeding to reexamine various types of arrangements between building owners and broadband and video providers. The FCC’s proceeding, called a Notice of Inquiry, is the first step toward the potential enactment of new rules governing these arrangements. Reply comments in the proceeding are due on August 22, 2017.

The FCC’s notice asks stakeholders to provide information on a number of key issues concerning the rights of building owners to enter agreements with network service providers and whether these arrangements enhance or deter competition, including:

1. Exclusive marketing agreements by which building owners may grant a network provider exclusive rights to market on the premises;
2. Bulk billing arrangements where the owner purchases services on behalf of tenants in order to reduce costs;
3. Revenue sharing agreements between providers and building owners;
4. Exclusive wiring arrangements such as when providers wire buildings, sell the wires to the owners and then obtain exclusive leaseback rights for some period of time; and
5. Whether state or local regulations inhibit broadband deployment and competition within MTEs.

Buildings owners, REITs and their trade associations, such as the National Multifamily Housing Council, are urging the FCC to maintain current arrangements. They argue that these types of arrangements provide the necessary economic incentives to deploy new broadband networks and save tenants money without undermining competition. Certain localities and some new entrants nevertheless claim that these types of exclusive arrangements unfairly favor incumbent providers and deprive tenants of their choice of provider.

The FCC’s Notice of Inquiry comes on the heels of a related FCC proceeding brought by the Multifamily Broadband Council asking the FCC to preempt a local ordinance issued by San Francisco, called Article 52. The ordinance requires MTE owners to allow a competing service provider to install the necessary equipment and facilities in their buildings to provide communications services or to use existing in-building wiring. A number of property owners have urged the FCC to preempt the San Francisco ordinance arguing that it would hinder broadband deployment.

FCC rules already bar video providers and telecommunications carriers from entering into

July 31, 2017

contracts with building owners to be the exclusive provider, but the agency has previously upheld exclusive marketing and bulk billing arrangements.

For more information on the FCC's proceedings affecting building owners, or help in filing comments with the FCC, please contact [Michael Pryor](#).

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