

Here We Go Again: The FCC Takes Another Look at Multifamily Broadband

What's at stake for multifamily communities, commercial real estate and broadband providers?

By Kevin Donnelly / *National Multifamily Housing Council* and Valerie M. Sargent / *Broadband Communities*

Real estate is complicated. Broadband is complicated. Together, they're *very* complicated. The FCC recently launched a new proceeding to refresh the record on broadband competition and access in the multifamily and commercial real estate sectors. It sought similar information in 2017 and 2019.

In October and November, the National Multifamily Housing Council (NMHC) led a diverse coalition of stakeholders, including the National Apartment Association, the Council for Affordable and Rural Housing, ICSC, the Institute of Real Estate Management, Nareit, the National Leased Housing Association and the Real Estate Roundtable in submitting two rounds of data-driven comments to the FCC. Participants attested to the health of the multifamily broadband market and urged against any regulatory action that could disrupt innovation and investment in the multifamily space.

If the FCC further regulates the multitenant broadband market, it will harm broadband deployment, competition and the quality and speeds of service.

At the heart of the FCC's review are questions about the ways revenue/cost-share, wiring, marketing and overall access agreements impact broadband competition, deployment and access in the multitenant space. Similar to 2017 and 2019, current industry data shows that, by and large, renters and commercial and retail tenants are well served by the broadband market, which is centered on partnership and collaboration between property owners and broadband providers.

In sum, the NMHC, multifamily owners and operators, and coalition partners made the following points in the filings:

- 1 All sectors of the multitenant real estate industry – apartment, office and retail – work diligently and effectively to ensure that their residents and office and retail tenants have access to high-quality, reliable broadband services.
- 2 Existing arrangements in the apartment industry have substantial consumer and market benefits. They:
 - permit and encourage access to competitive providers
 - provide access to broadband speeds often higher than those available in nearby single-family housing
 - establish service level standards enforceable by the owner to ensure that the provider delivers the promised quality of service to residents
 - ensure that infrastructure inside buildings is regularly upgraded so residents can obtain reliable, high-quality service.
- 3 Mandatory access statutes/ordinances do not promote deployment and simply allow providers to cherry-pick opportunities in high-end properties.

- 4 The proposals under consideration do nothing to address deployment where it is most needed – improving the quality and availability of service for low-income Americans.
- 5 The FCC lacks the legal authority to adopt the proposed measures and should refrain from attempting to assume any further regulation affecting broadband deployment in the multitenant market.

View NMHC's full comments here: <https://tinyurl.com/yks592y9>.

WHO IS CALLING FOR MORE REGULATION?

Proponents of regulation, namely INCOMPAS, WISPA, the Fiber Broadband Association, Public Knowledge and a handful of broadband providers, have relied on anecdotes and speculation to claim the market is not working. They assert it needs intervention from the FCC by way of barring agreements between providers and property owners. In sharp contrast, the real estate industry has submitted detailed and factual information to assist the FCC in understanding the complexity of the real estate market and relationships between different types of property owners and broadband providers to demonstrate the success of the current market in delivering broadband to renters and commercial and retail tenants.

It is evident through repeated filings of the proponents of regulation that they prefer a regulatory framework that limits revenue/cost-share, wiring, marketing and access agreements from being entered; limits property owners' ability to control access to their properties; and ultimately shifts all broadband infrastructure costs to property owners. These efforts appear to disregard the complicated landscape of the multifamily and commercial real estate market. Some argue they also aim to allow unfettered access to the high end of the real estate market by providers who do not want to contribute to infrastructure buildout while leaving other segments of the market underserved.

It's also important to point out that broadband providers are split. Many



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operators believe the existing model should be preserved, highlighting the benefits of marketing, wiring and access agreements in promoting competition and driving higher service levels in the multitenant broadband market. These are often the same providers that have worked within the multiple-dwelling-unit (MDU) environment and multiple tenant environment (MTE) for decades, building strong relationships with property owners and investing significant resources that have made the multitenant broadband market so successful.

MDU BROADBAND MARKET WORKS

New survey data included in NMHC's filed comments showed that the multifamily space's broadband market is working as intended with solid competition and access to high-quality, reliable broadband service for residents.

The multifamily firms that responded to the survey collectively own 1,213,199 units and manage 901,896 units. Similar to previous findings, the average firm in the survey indicated that apartment residents have a choice of at least two competitive providers in more than 79 percent of their portfolio's properties, which exceeds the level of competition reported by the FCC for the U.S. as a whole. Further, the survey demonstrated that wiring, marketing

and access agreements do not inhibit competition but help it, with residents often choosing providers even when these agreements are in place.

FCC POLITICAL REALITIES, PARTNERSHIPS

The FCC has a lot on its plate. It's expected to operate for the foreseeable future at less than full strength as it awaits Senate consideration and possible confirmation of a permanent chair and another Democratic commissioner. Even with that aside, President Biden's administration faces a challenging political landscape that makes addressing issues such as net neutrality, expanding the Emergency Broadband Benefit program, and leveraging infrastructure efforts to build out broadband networks across the country more delicate. Add in pressing media and spectrum issues along with this proceeding, and the reality is that the timing of any FCC decision or action is unclear.

NMHC and its allies continue to believe that if the FCC proceeds with efforts to adopt any further regulation of the multitenant broadband market, it will harm broadband deployment, competition, and the quality and speeds of service provided to apartment residents and commercial and retail tenants. The proposals some advocate will do nothing to address deployment

MULTIFAMILY BROADBAND TECHNOLOGY

where it is most needed and could most improve the quality and availability of service for Americans. That should be the collective focus of policymakers, property owners and broadband providers. It's time to look at places with no broadband infrastructure in place or where the infrastructure in place is aging or failing.

Look no further than the COVID-19 pandemic to see how committed the real estate industry is to providing U.S. renters and businesses with superior service. The apartment industry ensured that residents had reliable broadband service to meet their personal, professional and educational needs while at home during the pandemic. The broader commercial real estate industry, both the office and retail sectors, worked tirelessly to ensure U.S. businesses of all kinds had seamless connectivity to serve their customers.

Closing the digital divide and expanding deployment and

adoption will require collaboration and partnerships between various stakeholders, including policymakers, property owners of all kinds, and service providers. The relationship between property owners and broadband providers is very symbiotic. It evolved out of their mutual need to meet residents' demand for high-speed internet access; they need each other to be successful.

Broadband companies are a staple in multifamily life, and they deliver a vital service to residents that helps them live their connected lives more effectively. Real estate owners seek efficient, dependable service delivery and have valued the partnerships built with providers of different sizes and specialties through the years. The FCC should look to the MTE as a model of success and aim to replicate it as much as possible as the U.S. looks to tackle the digital divide once and for all. ❖



Kevin Donnelly is vice president of government affairs, technology and strategic initiatives for the National Multifamily Housing Council. He can be reached at kdonnelly@nmhc.org. Valerie M. Sargent is a multifamily speaker, trainer and executive consultant and is the multifamily news



*correspondent for **BROADBAND COMMUNITIES**. Contact her at valerie@bbcmag.com. For more information, visit www.nmhc.org, www.bbcmag.com or www.valeriemsargent.com.*

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