Remarks of Commissioner Mignon L. Clyburn
The Media Institute, Washington, DC
February 25, 2015

Thank you, Patrick, for such a warm introduction.

In the 35 years since its founding, The Media Institute has become one of Washington's – and indeed America's— preeminent forums for the full expression of thought, deliberation, debate and dialogue on pressing issues in the media.

- You have published series upon series of informative texts.

- You have convened thought provoking forums with leaders from government, industry and academia.

- You have focused national attention on – and in the process created a national celebration of – America's defining and quintessential freedom – the First Amendment.

- And Patrick, since the advent of your blog, you have solidified your place in the pantheon of your mentor, William F. Buckley, whose family has ties to Camden, South Carolina, by the way. He must be beaming with pride, as your incisive musings have given us all cause to examine – and reexamine, our views on everything from commercial speech, to content controls.

Plus, I'm not sure how many other authors out there can rightfully claim blog tags ranging from Euripides to Etta Baker, from Al Sharpton to Aeschylus or from Duck Dynasty to the DMCA.

But you, my friend, have elegantly knitted what may appear to most as disparate themes, into one unified message — Freedom of Speech and the First Amendment, are alive and supreme in our nation.

And the fact that over all these years, you have been able, on a month-to-month basis, to keep so many FCC commissioners, staffers, lawyers, lobbyists, reporters, critics, media companies, publishers, and various and sundry hangers-on, sitting down as lions and lambs over genteel luncheons at swanky Washington hotels, with minimal bloodshed, is a testament, perhaps, to your real skill — the masterful art of mass manipulation.

So to Patrick and the Media Institute, I am grateful for the opportunity to share a few thoughts with you today.

For those who may not know me that well, as a public servant, I strive to be a "facilitator of opportunities," and a "connector of the disconnected". As a general rule, I think that the marketplace should be left alone when things are working well. But when the market does not operate fairly or efficiently, I believe those of us in government should not hesitate to step in judiciously to ensure fairness and competition or restore foreclosed opportunities. It is important to ensure that there not only is a level playing field, but also that the game is open to every player who wants to step onto that field.

Several sectors of the communications landscape currently benefit from the level of competition, investment and innovation we've experienced in our lifetime. The number of platforms and opportunities that have resulted from this are mindboggling. Yet, with all of this positive momentum, major disconnects remain, and today we operate in a vastly different telecommunications and media environment than we did twenty, ten, or even five years ago.

The FCC has been the center of attention during the last couple of weeks, due to the coverage of what is known as the Critical Information Needs study.

While there is a lot I could say, allow me to point out just a few things that fail to get mentioned:

- On May 24, 2013, this agency put out for Public Notice, the research design and the intent of a study which sought to gather data and other information about whether there are any market entry barriers, preventing local communities from receiving important information.

- With this Notice back in late spring, we followed what is custom for the FCC, in making all major policy considerations transparent and public, in order to receive a wide range of input from affected parties and the general public.

- Studying such barriers, and determining whether there are appropriate policies to remove such barriers, is what Congress directed us to do in Section 257 of the Communications Act.

Understanding the markets we regulate is necessary, critical and urgent, and in a world where technological change happens at breakneck speed, we have three fundamental choices:

1. The Commission can regulate in the dark, without research and critical data;
2. It can do nothing, not act and risk not protecting the public or appropriately balancing the needs of industry, or
3. It can seek a better understanding of the industries it regulates and the environment in which they operate.

As a person who spent 14 years running a small weekly newspaper in Charleston, South Carolina, I would never be a part of any effort to chill speech, shape the news or influence news gatherers. I am about facilitating ownership and opportunities and making sound decisions about our most critical industries based on solid research and not rhetoric. Period.

Also, over the last few weeks, my office, along with those of my colleagues, has been abuzz with industry representatives, consumer groups, and other stakeholders, on the attribution rules. The whole issue of JSAs and SSAs presents a quandary for someone like me, because I recognize the needs of small and medium sized media markets and the desire and need to provide news and local stories to those markets, on the one hand. On the other hand, we have heard a good number of anecdotes about how such arrangements have been designed to patently circumvent the ownership rules — and that is not good for anyone. Suffice it to say, that I have an open mind on the issue and will look closely at what is put into circulation.

What I Believe

I favor competition and diversity of voices in the delivery of broadcast services, and want to ensure that consumer choice is a key part of advancing the public interest. And I favor policies that will serve to create, and expand ownership opportunities for small businesses and new entrants, but I recognize that there are barriers to entry, including access to capital, which present problems for diverse ownership and voices.

Communications Act Rewrite

There has been a good amount of ink devoted to the prospect (or speculation) of a major rewrite of the Communications Act. What I will say here is that the 1996 Communications Act, ushered in several major advancements in communications, and the FCC should, and continues to, build upon that legacy without destroying the fabric of the law. Those four non-negotiable pillars of the Act – competition, consumer protection, universal service, and public safety – should remain a core part, of our communications policy, no matter what.

As a regulatory agency, the FCC has the role of developing rules and regulations, once legislation is passed, but I suspect, we may be quite a ways away from that process at this point in time. Nevertheless, this is an amazing time to be involved in the communications sector – whether as an advocate, entrepreneur, corporate leader, minority/women business enterprise, or policy maker. Clearly, technology and innovation are advancing exponentially, and I look forward to all that is to come.

Media Overview

As we sit on the cusp of several major undertakings, I thought it would be interesting to share a few thoughts about the media industry. Over the past few years, we have seen large and significant transactions occurring in the media and communications space. Consider some of these deals:

- Comcast's acquisition of NBC Universal at $16 billion.
- Liberty Global acquired Virgin Media at $16 billion, which gives them access to Europe's largest cable market.
- Tribune and Local TV: $2.7 billion
- Liberty Media acquired Charter for $2.6 billion
- William Morris and Silver Lake Partners purchased IMG Worldwide
- Gannett acquired Belo at $2.1 billion

- Publicis Group merged with Omnicom, creating the world's largest advertising agency

And as I read the reviews of several experts, one of them stood out with this analysis, and I quote:

> "The same critical industry forces that have driven increased broadcasting deal activity since 2011 have not shown any sign of receding with growing retransmission fees at the forefront. Total retransmission fees for 2013 were projected to be approximately $3.3 billion, increasing to $7.2 billion by 2018. With growth in TV broadcast advertising projected to be only 4% from 2013-2017, gaining increasingly greater shares of the retransmission pie will be critical for broadcast TV profitability going forward."

Here's the part that got me:

> "Although U.S. government regulators will likely continue to scrutinize broadcasting consolidation (particularly in like geographic markets), there is no reason to assume, that regulation will be an impediment, to further deal activity going forward. New regulations allowing for greater foreign ownership in TV and radio stations will also be beneficial, to the overall industry, as it will open up additional avenues for capital investment."

I suppose this expert either has been spending time on the 8th Floor, or simply has as good a pipeline of information as John Eggerton or Brooks Boliek.

TV

While views may differ, I believe many media companies are fundamentally in the business of creating video content, and not necessarily are they in the business of distributing it. While there are many distribution platforms, the vast majority of revenue and profits are derived from television. In the mid-term, the health of the pay-TV ecosystem is probably the most influential factor in determining the value of U.S. media companies.

Pay-TV, with subscriber payments such as affiliate fees, is on a positive growth track, according to some of the experts. In the long run, the viability of media companies will be determined by their ability to master increasingly complex forms of media consumption and distribution. In the approximately $100 billion U.S. television ecosystem, advertising accounts for 57% of revenue; affiliate fees account for 40% of revenue; retransmission fees account for 2% of revenue, and video on demand for about 1%. One thing we know is that consumers will always want to view high-quality video content, and are more than likely willing to pay for it.

The television business is not without its challenges. Now more than ever, the television industry finds itself at a crossroads. Conceivably, the TV business would be able to survive by just sitting back and collecting an increasing flow of affiliate fee payments. But to thrive in this new digital environment, it should take a hard look at how to create a product that will meet consumer demands and expectations today, especially for content that can be consumed on mobile, wireless devices.

Cable

In the cable world, obviously, big things are ahead. We just don't quite know how big.

Looking at the cable ecosystem, there are six basic categories of programming that provide the bulk of the content:

1. **Sports** programming, including League specific channels;
2. **General Entertainment,** including Movie Channels and niche programming;
3. **News**, including business news and weather;
4. **Non-Fiction**, including affinity channels;
5. **Children**, and
6. **Lifestyle Channels**

All of these categories, I am told, are poised for growth, as the American audience becomes not only more fragmented, but also increasingly more loyal to their chosen niches.

Social Media

And then there is social media, which is an increasingly essential part of many of our lives. A few reported statistics to ponder:

1. **The fastest growing demographic on Twitter is the 55-64 year age bracket.**
    - Growth is up 79%, since 2012
    - The 45–54 year age bracket is the fastest growing demographic on both Facebook and Google+
    - Facebook jumped 46%, and Google + jumped 56%

No longer is social media "just for teenagers."

2. **189 million of Facebook's users are "mobile only"**
    - Not only does Facebook have millions of users who don't access it from a desktop or laptop, but mobile use generates 30% of Facebook's ad revenue as well. This represents a 7% increase from the end of 2012.

3. **<u>YOUTUBE reaches more U.S. adults aged 18-34 than any cable network</u>**

   - If you think TV was the best way to reach the masses, you may be out of luck reaching this age bracket. Of course, one video won't necessarily reach more viewers than a cable network could, but utilizing a platform with such a wide user base over time, does.

4. **<u>Every second, two new members join LINKEDIN</u>**

   - The social network for professionals continues to grow every second. From groups to blogs to job listings, this platform is a rich source of information and conversation for professionals, who want to connect to others in their industry.

5. **<u>Social media has overtaken that other explicit pastime, as the No. 1 activity on the web</u>**

   - We all knew social media was popular, but this popular? Apparently it's now the most common thing we do online. So next time you find yourself watching silly videos on Facebook, you can rest assured that many other people online are doing something similar.

6. **<u>LINKEDIN has a lower percentage of active users than PINTEREST, GOOGLE+, TWITTER AND FACEBOOK</u>**

   - Although LinkedIn is gathering new users at a fast rate, the number of active users is lower than most of the biggest social networks around.

7. **<u>93% of marketers use social media for business</u>**

   - That means there are lots of people out there getting involved and managing a social media strategy. It's becoming more common to include social media as part of an overall marketing budget or strategy, as opposed to when it was the outlier that no one wanted to spend time or money on.

8. **<u>25% of smartphone owners ages 18-44 say they cannot recall the last time their smartphone was not next to them</u>**

   - It's pretty clear that mobile is a growing space. And we've all heard the cliché of smartphone owners who don't want to let go of their phones, even for five minutes.

9. **<u>Even though 62% of marketers blog or plan to blog this year, only 9% of companies employ a full time blogger</u>**

   - Blogging is clearly a big focus for companies, who want to take advantage of social media and content marketing.

10. 25% OF FACEBOOK users don't bother with the privacy settings

- There has been a lot of news about social media companies and privacy. Facebook itself has been in the news several times over privacy issues. Instagram users recently raised concerns over changing their terms of service, and the recent NSA news has seen people become more conscious of their privacy online.

- Despite these high-profile cases of security-conscious users pushing back against social networks and web services, Velocity Digital reports that 25% of Facebook users don't even look at their privacy settings.

And last, but not least,

- 23% of Facebook users check their accounts 5 times or more every day.
- 210,000 years of music have been played on Facebook
- 80 % of users prefer to connect with major brands on Facebook
- Over 1 million websites have integrated themselves with Facebook.

So my friends, as you can see from just these snippets of data, the media landscape is dynamic, active, and presents both challenges and opportunities for us all.

I know there are probably some questions about specific proceedings, items or issues before the Commission, but as many of my predecessors have said when asked about those things, this is not that kind of party.

So again to Patrick, and members of the Media Institute, I want to thank you for inviting me here once again and I sincerely appreciate all you do to promote good honest dialogue.

Thank you.