Remarks of Commissioner Mignon L. Clyburn (as prepared)
The Media Institute
Washington, DC
October 17, 2017

Thank you, Adonis, for such a generous introduction. I am not sure if many are aware, of how fitting it is, for today's luncheon to take place in the historic St. Regis. This hotel, which opened 91 years ago as The Carlton in 1926, was a historic one for radio. It was the year that the National Broadcasting Company was established, and marked the first singing of a jingle commercial on radio. I promise, especially in this voice, to spare you any attempts at recreating those noteworthy commercial moments.

And while it is obvious that our media and telecommunications landscape has undergone dramatic changes over the past century, what remains is the FCC's 83-year responsibility, to uphold the public interest, by promoting competition, localism, and diversity.

No doubt you have heard countless government officials, industry leaders and more, proffer their perspectives on the First Amendment and the future of communications policy, over the course of The Media Institute's nearly forty-year history.

Most of those messages, I am sure, aligned with your stated mission to foster: "a competitive media and communications industry." But it is against this backdrop, that I must share with you, how deeply concerned I am about the path the FCC's majority is taking, when it comes to localism, viewpoint diversity, and access to affordable communications services.

Even if you do not fully agree with me this afternoon, it is my hope, that you leave with a better understanding of my views, and just maybe, move another step in this direction.

On this we can all agree: change is inevitable, particularly in this fast-paced technology-driven space, where we've gone from the telegraph, to a world in which millions carry around a smartphone, with the functionality that outstrips all of NASA's computing power in the 1960's. But what is unsettling, is that many of the changes we are currently making at the FCC, have a one-sided benefit, and the impact on consumers, competition and the public interest, are mere afterthoughts.

The FCC is a regulatory agency, with a charge that requires us to protect the *public* interest. This means we should strike and maintain the proper balance, when it comes to consumer and industry interests. Yet, when it comes to the future of our media landscape, the FCC majority is embarking on a path, toward a regulatory-free zone. Now this is not a criticism of traditional media outlets. In fact, for me, broadcast television, radio, and print newspapers, continue to be the primary sources I use, to stay informed of local events, emergency information, and investigative reports. I want nothing more, than for them to have a long future ahead. In fact, data from Pew Research Center last year, showed that television remains the most widely used news platform, with 46% of viewing, coming from local TV news outlets.

What I question, however, is the assertion that the only way for these outlets to survive, particularly in large media markets, is to consolidate or cut back on local news production. The reality is, and 2017 data shows, that business is booming for many in the broadcast industry. One major broadcast group reported that revenues are up 15% this year, a new record. Another reported revenue to be up 17%, and yet another broadcaster saw its stock price reach a record high earlier this year. This growth appears to have come both from increased advertising dollars, and growing retransmission consent fees.

So, looking at the issue from the perspective of newsroom investment, Pew Research Center data found, the median salary for a news director among local TV news rooms, increased 7% in 2015, and that is from the latest data available. Similarly, an examination of data at the national level by Media Dynamics, a New Jersey based research firm, reported earlier this year, that cable and broadcast TV networks, had sold a record breaking $19.7 billion in prime-time commercial spots.

I mention this not to vilify financial successes, nor deny that small broadcasters in many markets face challenges. What I am saying is, that much of the data I have examined, does not match the horror stories being shared in ex partes before the Commission. As the FCC majority pushes ahead with wholesale deregulation of the broadcast industry, is anyone thinking or asking about the public interest? How will consumers be impacted by fewer sources of local news? Should we be content, that of the nearly 1,400 full-power television stations, African Americans own just 12? Should we not show concern, if a single broadcast station group, controls local news coverage being delivered to more than 70% of U.S. households?

This reminds me of an interview I had this summer with the NBC affiliate serving the Mid–Ohio Valley. I was surprised to learn upon visiting the station's website, that the same company in the same local television market, also owns the CBS, Fox, and MyNetworkTV affiliates. This left me wondering, how could such an arrangement, possibly further viewpoint diversity in that particular community?

And after listening to endless declarations extolling the need and virtues of clearing our books of antiquated regulations, why am I not shocked by the FCC majority reinstating the technologically obsolete UHF discount, while very clumsily attempting to disguise the move, as a prelude to media modernization? And on tap for next week: the wholesale elimination of a rule, that ensured broadcast licensees have a local presence in their community.

Now, in my travels over the last few months, I have had the opportunity to listen to voices too seldom heard inside of the Beltway. People in these communities are not clamoring for arbitrary rollbacks or one-sided policies, they are calling for affordable, robust broadband and a chance to be heard. Now the FCC has done a lot to advance, the deployment of broadband in rural communities. Just look at the number of NPRMs, Orders, and yes, billions of dollars flowing to advancing opportunities, in high-cost areas. And as a Commission, we are laser-focused on the deployment of infrastructure, but where we have blurred vision, is when it comes to addressing issues, surrounding affordability or the elimination of other barriers to broadband adoption outside of the infrastructure context.

One item we have assiduously avoided advancing, is the Lifeline program. In just about every other context and every other USF program, we have acted with haste, to remove existing barriers to entry. But when it comes to a program, that provides millions the chance to maintain a dial tone or should be providing millions more the opportunity to afford broadband at home, we erect insurmountable barriers to entry for Lifeline providers wishing to do business.

As it stands right now, there is no way for a new provider to offer Lifeline broadband service, even though we gave them the green light this past year. So, that teenager hiding in the library stacks in order to finish his homework after the building closes? No Lifeline relief for him. That transitional worker trying to fill out an application when the terminals are all occupied in that school building or recreation center? No Lifeline option for her. And what is the FCC saying to those states that want to enable more service options for their citizens requesting help? Preemption of their ability to certify qualified providers. And just in case that icing was not thick enough on that cake, we announced that the agency will not let any new providers into the program via the mechanism that was set up last year.

My office has heard from states who want to certify Lifeline broadband providers. They want to be a part of the effort to break those persistent digital divides. They have identified carriers they feel are best suited to offer affordable options for those most in need, but how does the Commission respond? By providing no path forward.

In nearly every other context, in every other Universal Service program, even if there were prior issues, problems or concerns with a provider or a school district, we bent over backwards to encourage new entrants, forgave old ones, and brought more opportunities to consumers.

But, when it comes to Lifeline, we gave the boot to nine providers that were days away from offering critical broadband to those who can least afford service. In some cases, the companies were already providing service. In other cases, there were companies with no enforcement history, but they were nonetheless ejected from the program and told to get rid of their existing customers.

This action was unilateral, and though I am admittedly not an attorney, I question the action's lawfulness. It has cost providers millions of dollars, and has left thousands of customers without a provider. It's a shame that we continue to perpetuate a picture of a program, that is being abused, when we know that Lifeline has an extremely low improper payments rate.

It's a shame to not allow providers that are willing to abide by the most comprehensive reforms implemented since the Lifeline program was established by President Reagan and expanded by President Bush, to connect our nation's most vulnerable consumers. And the biggest shame of all, is doing nothing in the short-run to address or fix this problem.

Every day of inaction is another opportunity lost, and if you truly believe, that after all the accountability measures that were put in place last year, that program is still poorly designed, then but forth your own design so that we may serve those most in need. And using old, pre-reform data to suggest current flaws in the program is an inexcusable stalling tactic that ensures that the current generation of the digitally excluded will pass on that unwarranted legacy to their offspring.

Lifeline is the only federal program designed to help poor people afford voice service and now broadband. And just last week, the current Chairman of the FCC reportedly said, that "Every American who wants to participate in our digital economy should be able to do so," and "barely half of those making less than $30,000" subscribe to broadband.

Citations alone, my friends, won't solve a thing, or make a dent when it comes to addressing the affordability gap for telecommunications services. Only action will. And a reformed and fully functional Lifeline Program will.

I have always been willing to work with my colleagues to close existing opportunity divides which is why I pushed for Mobility Fund Phase II, smaller Economic Areas in Auction designs and bidding credits in rural communities and on Tribal Lands. But denying low-income Americans, the opportunity to participate in our digital economy through inaction ensures that the next generation of qualified recipients, will be worse off than their parents, and as a regulator just about two generations away from qualifying for Lifeline, I have an obligation to give voice.

One more minor point on universal service. You are no doubt aware, that the money held in the universal service fund, is slated to be moved to the Department of Treasury. I have heard many stakeholders express concern, about what that means for the future of the universal service program.

While I cannot express a firm opinion, about what should or should not be done at this point, today I am calling on the leadership, to institute a rulemaking, because it is the best way to address this outstanding issue. A rulemaking would allow the Commission, to articulate its thinking, and allow parties to comment on the proposed approach, much as the Commission has previously done in every other context. It would be a victory for transparency if this were done in the open, rather than behind closed doors, and without stakeholder input.

Last month, the FCC voted 3-2 to adopt the Twentieth Mobile Wireless Services Competition Report, and found that the market for commercial mobile wireless services was effectively competitive. This was the first time, during my tenure, that the Commission made such a finding. This year's competition report, failed to include, the comprehensive analysis that was included and used in the prior six reports. In the past, the Commission conducted a thorough analysis, of the entire commercial mobile wireless ecosystem, including key input markets, such as towers, backhaul, and transport facilities, as well as the output markets for products, that rely on mobile wireless services, such as mobile applications and content.

By providing detailed analysis on the costs of backhaul, availability of data roaming agreements, and other key factors that determine the barriers to entering the wireless services market, the previous six competition reports were useful, in identifying areas where communications policy, could promote deployment of competitive options for wireless service in rural areas.

The thorough examination of the commercial wireless ecosystem, in those prior reports, encouraged me as Acting Chairwoman, to seek a voluntary solution to restore interoperability in the lower 700 MHz band. They led to my support, of the 2014 Mobile Spectrum Holdings Order, that showed consistent consolidation, in the commercial mobile wireless market between 2003 and 2013, and set spectrum limits in the incentive auction, to promote more competition. They also provided support for the Commission's decision, in 2015, to reform our competitive bidding rules, so small companies could gain licenses in the incentive auction and provide services in underserved rural areas.

But this year's report based its finding of effective competition, on a much narrower set of criteria, and the fact that currently, there are four commercial mobile wireless carriers offering quote - nationwide- end quote service. I put the word "nationwide" in quotes, because one of these four carriers covers only 64% of the rural population. That means about 20 million people in rural areas, do not have access to all four of our nationwide wireless providers. And if this week's press reports of a major merger are true, we could soon be looking at just three national players.

Our recent Mobility Fund Phase II proceeding, is designed to bring ubiquitous mobile wireless service to millions: yes, I said millions of Americans, who are still waiting to experience the download speeds those of us in this room take for granted. To be sure, many wireless companies talk about 4G service, and what 5G will mean for consumers. The reality is, however, that far too many in this country, do not have reliable and affordable 3G service, so the truncated analysis used to justify the report's findings, do not offer a clear means to support or justify policies that would ensure robust and competitive options for rural communities in a reasonably comparable way as in urban areas.

Consumers deserve more. Given the number of pending proceedings that will impact when and how many consumers are able to access 5G, it is even more important now than it was seven years ago, for the Commission to comprehensively analyze the barriers to entry in the commercial mobile services industry. No matter how many Mobility Fund proceedings there are, I believe there will be pockets of Americans living in mountainous and very remote areas, where terrestrial wireless services will have trouble reaching.

In the Spectrum Frontiers Further Notice proceeding, and other proceedings such as Mid-Band NOI, the Commission is struggling with the right mix of policies for satellite and terrestrial wireless providers. What we need, are incentives for all providers, including satellite and fixed wireless, to see and make the business case for offering broadband services in remote and hard to serve areas. I encourage those who are trying to provide satellite or fixed wireless services in these hard to serve rural areas, to actively participate in such proceedings.

There are five of us, who have been afforded a special responsibility, to serve the public interest in the communications and technology space. By working together, we have a unique opportunity to make better public policy decisions, spur more economic growth and create more jobs as well as educational and health care opportunities and I again affirm that I am on the field, and ready play ball.

I once again thank The Media Institute for inviting me to participate in today's luncheon and if there is time, I look forward to any questions or comments you may have.