

REMARKS OF
COMMISSIONER GEOFFREY STARKS
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Thank you, Chairman Wiley, for that thoughtful introduction. And thank you, Rick, for hosting me here this evening. And a hearty congratulations to Fred Ryan and Caroline Beasley on their well-deserved awards for their impressive and important achievements. I am honored to have been invited to speak tonight as the Media Institute celebrates some of the standard-bearers of the First Amendment in our time. And I'm particularly honored to be doing so this year, as the Media Institute celebrates its 40th birthday.

The First Amendment

The need has always been clear – for free men and women to commit to the ideals of liberty and self-determination, they must be well-informed. A free press is the sentinel of our democracy. On this score, perhaps the greatest observer, and the greatest account, is Alexis de Tocqueville in Democracy in America. He writes: “The sovereignty of the people and the liberty of the press may therefore be looked upon as correlative institutions; just as the censorship of the press and universal suffrage are two things which are irreconcilably opposed, and which cannot long be retained among the institutions of the same people.”

In our current moment, perhaps more than ever, the need for a robust, independent free press has never been more critical. Today, there is an overload of information. It can be difficult to discern what is true, what is not; what are facts, and what are not; what is worthy to be called news, and what is not. And just as the promise of the First Amendment supported the free exchange of ideas in the age of typewriters and telegraphs, it continues to do so in today's era of broadband and network broadcasting. Social media, deep fakes, and the barrage of information that comes to each of us through the internet are potent new influences upon our democracy that admonish us to develop new responsive interpretive muscles.

But part of this harkens back to the era of our Nation's founding. In the 1830s, Tocqueville wrote that “[t]he number of periodical and occasional publications in the United States actually surpasses belief.” The American people have a deeply ingrained urge to seek out and wade through what the Supreme Court has called a “multiplicity of information.” That's a good thing because it is essential to our democracy that the American people go through the process of hearing from a wide range of sources, ideologies, and viewpoints. The fabric of our shared culture has long understood how to make decisions in the midst of this fog. Democracy is inherently curious and competitive, which is why we often speak of our culture as the product of a marketplace of ideas.

Like all markets, the one of ideas rises and falls upon the quality and depth of information. As they say, “Garbage in, garbage out.” What we need, then, is a press that pursues unvarnished facts and, above all else, truth.

Media Diversity

The rights enshrined in the First Amendment, including freedom of speech and freedom of the press, guide the Federal Communications Commission's public interest standard, which must inform everything that we do. But the fact that those celebrated words were written into the Bill of Rights does not, in and of itself, guarantee that it will work as intended. The First Amendment is not self-executing. Preserving its guarantees requires the vigilance of regulators, the media, and the public alike.

Ida B. Wells once said: "The people must know before they can act, and there is no educator to compare with the press." For its part, the FCC has an incredibly important role to play in supporting the First Amendment and preserving the freedoms it affirms. Namely, the FCC, by statute, is tasked with facilitating greater diversity in our national discourse. As the Supreme Court has stated, when considering the First Amendment, "the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public."

Those in the media are both the beneficiaries and the guarantors of our First Amendment rights. They have the power to inform, to educate, and to impact the way we view ourselves and the world. Where we strengthen our media, we strengthen our national conversation and reaffirm our freedom of speech at the same time.

The FCC, which governs our communications networks, has a critical role to play in securing and protecting public access to information. One of the many roles the law assigns to the Commission is licensing broadcasters to use our public airwaves. In doing so, our controlling statute demands that we distribute these licenses in a way that prevents too many from winding up in the same hands and promotes ownership by women and people of color. This is important. The capacity of broadcast media to empower and inform is indisputable, and it is critical that those exercising this power represent all of us, not a mere privileged or anointed few. Eighty-six percent of Americans get their local news from local TV stations, while only twenty-three percent get their local news from sources that are exclusively online. And numerous studies suggest that most of the news consumed online is originated by traditional sources, like broadcasters or newspapers.

Of particular concern to me, then, is the persistent lack of diversity in broadcast media ownership, and among its rank and file. America's broadcasters should look like America. Ownership sets the tone for a media outlet, and employees manage its day-to-day operations and provide its public face. Given the crucial role our media plays in informing the public, it is critical that it reflect the nation at large, both behind and in front of the camera, and that our local media also be reflective of the local communities it is bound to serve. These institutions should mirror the richness of our population and give expression to its diverse voices.

The need for a greater focus on diversity and inclusion has never been more apparent, and the Commission has, largely and over many decades, failed in meeting its statutory goals and obligations in this regard. This isn't conjecture or political posturing. It isn't even an opinion. It is a fact borne out by our data. The FCC's numbers on broadcast ownership are collected every

two years. The latest dataset was released in 2017. According to our most recent data, there are more than 1,300 full power television stations licensed across the country, with only 12 owned by African Americans. If you were rounding, that would be closer to zero percent than one percent – and this has been so for a long, long time.

However, now we may finally have a chance to get this right. The FCC has been given a golden opportunity to succeed where it has previously fallen flat. As the Third Circuit Court of Appeals observed in its most recent media ownership decision, *Prometheus v. FCC*, the Commission can and must do better in addressing the impact of its regulatory efforts on the ability of women and people of color to own stations. No longer can it rely on bad data and analysis while ignoring its obligations. The Court sent back this FCC's latest deregulatory efforts and demanded that we get the data and perform the analysis necessary to ensure that we are fully meeting our statutory requirements.

Beyond ownership, the Commission must redouble its Equal Employment Opportunity efforts to ensure that broadcasters are seeking diverse employees. For 15 years, the Commission has had an open rulemaking proposing to continue a decades old data collection on the diversity of the broadcast workforce. And for 15 years, while we've been stuck in neutral, we've elicited zero visibility on whether station management and news teams reflect our communities. We cannot fully engage on this issue when our ability to understand the problem is compromised.

On both counts, when it comes to ownership and employment, there are those that would argue that collecting data or adopting meaningful policies to promote diversity would be unconstitutional. I couldn't disagree more. First, collecting and analyzing data is a core function of an expert agency, and having a better understanding of the industries that we regulate is also just common sense. Second, when it comes to designing programs that would help improve our stagnant and declining ownership numbers, we can target our efforts based on race, ethnicity, and gender, so long as we are careful and provide a well-supported reason for doing so. The Third Circuit Court has instructed us to do so. Given the historic problems we've had with broadcast diversity, new research like disparity studies identifying past discrimination in licensing, could be critical to both addressing the concerns of the Third Circuit and finally making good policy in this space.

So, we must get this right. We must do better in fulfilling our statutory obligation to promote diversity in broadcasting. And we must support the inclusion of marginalized voices in the national conversation. Only then can we claim to have upheld our responsibilities under our statute and secured the guarantees of First Amendment in the field of broadcasting.

Conclusion

And with that, I'd like to once again thank Rick and all members of the Media Institute for inviting me here this evening. Thank you for the work you do.

