

Commissioner Mignon L. Clyburn  
Federal Communications Commission  
Federal Communications Bar Association  
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Good afternoon. First, allow me to thank Ambassador Gross for the opportunity to share a few thoughts with you today.

I consider it an honor to address the FCBA, some of the sharpest communications lawyers in the country, but for public officials, appearing before this Bar might be intimidating ... even more so for a non-attorney.

But just as I was about to tense up about joining you today, I reviewed a few data points from public opinion polls you've seen. The most admired professions in order are:

- Doctors
- Military officers
- Firefighters
- Scientists
- Nurses
- Engineers
- Police officers
- Priests / clergy
- Architects
- Teachers

Lawyers? Not even on the list! In most reputation integrity polls, lawyers were surpassed by used car salesmen, politicians, the cable company, and most recently, network news anchors. That last category really has to hurt.

So, if I appear especially at ease addressing this august group of professionals: one, blame it on those public opinion polls; two, I am speaking the truth when I say that I was not included in the survey, and three: I will always hold you in high esteem.

Seriously, to say that 2015 is off to an interesting start is the understatement of the year, even with a host of phenomenal developments taking place here and around the world.

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### **My Philosophy and Approach**

I promise to use the remainder of my time highlighting some areas of particular importance to me, for 2015, instead of auditioning for the Daily Show.

Most of my world view has been shaped way outside the Beltway. I am the product of both rural and urban cultures, ran one and spent a lot of time in small businesses, attended school with and grew up around minority consumers, and have a lot of respect and listen closely, as both new

entrants and established interests share concerns about their enterprises. I became more sensitized to local and statewide priorities while serving on the public utilities commission, and what was my main takeaway? That before one starts along the path of changing rules, regulations, and policies, we all are best served, if our core objectives are matched with current and projected realities. Our decisions have real world consequences, so our actions must be as rational as they are intentional.

In keeping with that reasoning, I believe we generally accomplish optimal results by using scalpels and fine tuning as opposed to applying sledge hammers and blunt force trauma.

As a general matter, I favor less regulation over more, and market-based solutions above government-imposed rules. But make no mistake, I am also a proponent of stepping in and acting, if the market falters or fails.

### **In the Media**

The media landscape has undergone sweeping and dramatic change in just a few short years. Growing numbers of Americans consume content in ways that are disrupting the traditional landscape.

The old adage — content is king, remains true, but both the sources of that content and the platform for that content are coming from new and novel places: independent producers; ISPs, even station groups and operators.

Non-pay television viewers are enjoying expanded options too. Those so called diginets have moved from simply airing the old classics we used to love, to producing new and original programming.

And while many continue to value traditional cable and broadcast outlets, an entirely new suite of options have taken hold. From Netflix and Hulu, to Sling and Amazon — the over- the- top offerings provide consumers with increasingly diverse programming, at a variety of price points. But to fully enjoy these options, consumers need broadband, a necessity still not available everywhere or affordable to everyone.

But,

- Ensuring that consolidation, neither vertical nor horizontal, does not impede the development and deployment of more independent content for consumers;
- Removing barriers to entry for content producers;
- Opening up the video platform system to allow ease of access for content providers;
- Making sure our rules accommodate new, innovative forms of video and media technology, without penalizing incumbents; and

- Creating the regulatory framework that encourages, rather than discourages, increased ownership of media properties by minorities, small businesses, and new entrants, remain key concerns for me.

And putting the finishing touches on priorities yet to be realized, with my colleagues and with you, are at the top of the list as we approach the end of the year.

### ***Ensuring affordable access***

We must double-down on our efforts, to ensure that affordable broadband is available to everyone. The FCC has done a valiant job reforming the majority of our universal service programs, which is enabling the deployment of robust networks. But we have fallen short, when it comes to the adoption side of the house and have failed to reform the program best positioned to close the broadband gap.

A rebooted Lifeline program, and I don't mean just adding broadband to the mix, but taking a fresh look at this 30-year-old program, is the most efficient way to truly address those chronic, digital divides. Last November, I [outlined](#) five underlying principles, which should guide a comprehensive modernization of our only needs-based, Universal Service Program.

*First, we must get the most bang for our universal service buck.* Too many providers offer a similar set of the *de minimis* 250 minutes, with any additional time or texts coming at a huge cost. This stagnation must end. A minimum level of service will ensure we get the most value for each universal service dollar, and better service for Lifeline recipients.

*Second, providers should no longer be responsible, for determining customer eligibility.* Changing the current construct is necessary to ensure the future integrity of the program, is critical to reduce privacy concerns of consumers, is essential in increasing competitive choice, and will decrease administrative burdens on the providers.

*Third, we should encourage broader participation through a streamlined approval process.*

*Fourth, we should leverage efficiencies from existing programs and institute a coordinated enrollment.* There is absolutely no need for the FCC to reinvent the wheel.

*And fifth, we need public-private partnerships and coordinated outreach.*

It is my hope that we launch a proceeding this Spring, which will bring this program out of the age of shoulder pads and MC Hammer parachute pants, into the digital age, enabling affordable and ubiquitous broadband. I am pleased that the Chairman has announced this as a priority, and look forward to working with all of my colleagues to bring dignity to this program.

## **Ensuring just and reasonable rates for inmate calling**

Despite clear legal authority under Section 201 of the Communications Act, the FCC dragged its feet for over a decade, while families, friends, lawyers, and clergy, paid egregiously high and patently unlawful fees to make a simple phone call to and from inmate facilities. No one should wait over a decade for an agency to respond to a petition, and quite frankly, we were negligent for not acting sooner.

However, we took a critical first step last year and despite the parade of horrors, opponents to inmate calling services reform predicted would flow – from losing phone service entirely to security lapses — we’ve witnessed nothing of the sort. What we have seen is increased call volumes and letters praising us for doing the right thing. The FCC has more to do, to bring relief for interstate as well as intrastate rates and fees, but I hope that we will finally take the baton over the finish line, this summer.

I mention this item for more than one reason.

For those who continue to focus on Section 201 in another context, this item is a prime example of how the FCC did not consider rate regulation for years, even where consumers were subjected to blatantly unreasonable charges by providers with a clear monopoly, where severe costs to society were evident, and where there was a clear case of market failure. So, for those in a panic about rate regulation, there are millions who can testify to how high the bar is when it comes to the FCC intervening when it comes to rates and charges, and to anyone willing to accept the challenge this afternoon: Highlight examples, where the FCC has ruled that a rate is unreasonable in a context other than inmate calling or a tariff investigation over the last decade.

## **Promoting new entry and reducing barriers to deployment**

Another top priority for me is concluding the Competitive Bidding rule making well before the Incentive Auction. I would like to see small and large businesses take advantage of the rule changes and updates we proposed, namely:

- Considering bidding credits for those carriers, who choose to provide coverage to large percentages of persistent poverty counties;
- Increasing the amount of our bidding credits for small and very small businesses;
- Revising the former defaulter rule;
- And yes, carefully considering whether there is any public interest justification for the attributable material relationship rule.

Since 2010, I have been calling on the Commission to consider creative and legally sustainable approaches to promote greater participation by businesses of all sizes in the communications industry. These proposals address important developments in the wireless industry and are fully consistent with Congress's directives, that authorize the agency to conduct spectrum auctions.

We should update our rules in advance of the voluntary broadcast TV incentive auction, which will offer applicants a historic opportunity to acquire substantial amounts of valuable wireless spectrum below 1 GHz.

I will also continue to monitor the wireless industry, on its progress towards developing the test bed for location accuracy technologies and other key milestones we adopted in last month's wireless e911 indoor location accuracy Order.

Last February, was the first time the FCC proposed rules for indoor location accuracy, and I commend Chairman Wheeler for circulating a Further Notice toward an efficient development of rules with stronger 9-1-1 location accuracy requirements at the two and three-year benchmarks.

But part of the reason why we have not made more progress in wireless location accuracy, is litigation. Industry collaboration is a more efficient path to achieving progress. That is why I called on the wireless industry to show leadership and move ahead of schedule, to implement the proposed location accuracy rules that our nation needs. CTIA, the four nationwide carriers, and APCO and NENA, stepped up to meet this challenge and presented us with a roadmap with commitments to provide more accurate 9-1-1 location information, earlier than the two-year benchmark originally proposed.

I am also eager to see the progress that PCIA and CTIA are making, towards developing a toolkit of materials that will help resource constrained municipalities, implement the new rules to streamline the deployment of wireless infrastructure, which we adopted last fall.

In addition to competitive bidding, promoting new entry means reducing barriers to deployment. The FCC needs to take a hard look at removing barriers, including ensuring timely access to poles and rights of way, as well as factors that influence deployment including programming costs and concerns about access to programming.

While you wouldn't know it from the press coverage, we are also voting next week on an item to remove barriers that prevent local communities from responding to the needs of their citizens. While there may be disagreements about whether or not municipal deployments are a good idea, it is clear that laws restricting the ability of a community to respond to the technology infrastructure needs of its citizens, is a barrier to deployment. I firmly believe that the locality should be able to respond to the demands of their community, when the private sector has opted not to.

## **Promoting deployment and a free and Open Internet**

Now some of you may have thought that I would avoid the elephant in the room. But this issue is too important not to raise.

The Open Internet item vote is clearly one of the most important and consequential decisions, this Commission will be called to make.

The gravity of it all is not lost on me. My office is assiduously poring over the Order, comments, analysis and critiques. We have accepted meetings after meetings, from nearly every sector and interest group.

And while it has been my practice, not to comment on pending proceedings, I am opting to take some liberties today.

It is no secret that in 2010, I preferred a different path than one the Commission ultimately adopted. Specifically: (1) Title II with forbearance, (2) mobile parity, (3) a ban on paid prioritization and (4) preventing the specialized services exemption from becoming a loophole.

When the Chairman announced his proposal upon circulation, I was pleased to hear how closely it aligned with my prior vision. Yet, despite repeated – and I do mean repeated – press inquiries, we have declined to comment not only out of respect for the process, but because we needed to see the draft – all 332 pages and footnotes.

My office is still in discussions with the Chairman’s office about the item and I will not divulge those specifics, but what I will say, is that it is imperative that the order strikes the right balance, for consumers deserve and need strong open Internet protections and investors need clarity and certainty. And when I say investors here, I include investment in ISPs, edge providers, content creators as well as those developers in garages and on stoops. Some have expressed concerns, about allowing private rights of action in court, failing to consider the impact on smaller ISPs, that including interconnection goes too far or that the case-by-case approach does not go far enough, and that the new conduct rule may not be as strong as the previous unreasonable discrimination rule.

I commit to you that I am listening and will continue advocate for ways to strike the proper balance, as we approach the vote on next week.

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## **Conclusion**

I am grateful that you have allowed me to share my views and discuss this year's priorities this afternoon, and wish to thank you for your part in helping to make 2015 the most dynamic, interesting and challenging time of my regulatory career.