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For Immediate Release

STATEMENT OF COMMISSIONER MIGNON CLYBURN
On Today's "Friday News Dump"

WASHINGTON, February 3, 2017 – “Today is apparently ‘take out the trash day.’ In an eponymous episode of the *West Wing*, White House Chief of Staff Josh Lyman stated: ‘Any stories we have to give the press that we’re not wild about, we give all in a lump on Friday . . . Because no one reads the paper on Saturday.’ Today multiple Bureaus retract—without a shred of explanation—several items released under the previous administration that focus on competition, consumer protection, cybersecurity and other issues core to the FCC’s mission.

“In the past, then-Commissioner Pai was critical of the agency majority for not providing sufficient reasoning behind its decisions, citing specifically to the Supreme Court case *Fox v. FCC* which states: ‘[T]he requirement that an agency provide reasoned explanation for its action would ordinarily demand that it display awareness that it is changing position. An agency may not, for example, depart from a prior policy *sub silentio*[.]’

“It is a basic principle of administrative procedure that actions must be accompanied by reasons for that action, else that action is unlawful. Yet that is exactly what multiple Bureaus have done today. The Bureaus rescind prior Bureau actions by simply citing a rule that allows them to do so, when in prior invocations of that rule there have been oft-lengthy explanations for the reasoning behind the actions.

“My office requested more than the allotted two days to review the dozen items released today. We were rebuffed. Then, we simply asked to have the Bureaus comply with the reasoned decision-making requirements of the APA. No deal. It is disappointing to see this Chairman engage in the same actions for which he criticized the prior Chairman. I am hopeful that in the future this Commission, consistent with our shared commitment to increased transparency, will heed the APA’s requirement for reasoned decision-making. The American public deserves no less.”

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).