Remarks of FCC Commissioner Michael O'Rielly
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Clickbait and Switch: Redefining the Media

Thank you for that kind introduction and for the opportunity to be the precursor to what I am sure will be a fascinating panel. As a fancy warm-up act, my role reminds me of the work by Scott Adams, the creator of the comic "Dilbert," who espoused what could be considered true in many organizations, "The most ineffective workers are systemically moved to the place where they can do the least damage: management." As an FCC Commissioner, hopefully I will do only so much damage in the coming moments.

Framing the Issue

"Who is the Media" is a question many are grappling with today. It's a question I have been asked – both directly and indirectly – in too many settings to mention over the last few years. The answer has considerable ramifications for how billions and billions of dollars are spent, particularly as it relates to advertising, the lifeblood of the broadcasting community, and how companies that deliver media to the American public should – or should not – be regulated. And for this conversation, I am using the broadest sense of the word "media" to cover the whole gamut of content and offerings, not just news media.

While Washington rarely agrees on anything, one thing we all appear to recognize is that, in 2018, there are a multitude of voices distributed across a diverse number of platforms. To me, this is a tremendous benefit to the viewing and listening public. Never has there been a better time to be a consumer of entertainment content, news content, sports content, or any other content.

The amount of programming made available on a yearly basis, much of it of high quality in my opinion, seems to exceed what any human could possibly absorb. Consider the data point provided by FX Research that, in 2017, the annual tally of scripted primetime series was 487, which is up from 182 in 2002, 216 in 2010, and 349 in 2013. Yes, that's 150 additional series per year just over the last five years. Those are growth rates of 167, 132 and 39.5 percent, respectively. And the sources of such content provide a similar telling point: about 210 came from cable services (both basic and premium), 150 from broadcast, and 117 from streaming services. Importantly, the streaming side increased by 30 percent in just one year. And, this completely excludes all content now available over so-called "social media."

To argue that online streaming services – or over-the-top (OTT) platforms if you prefer — and social media content should not count as media in this day is to ignore what is happening in the marketplace. Beyond the investments by traditional media companies, such as CBS, to make content available via streaming and app platforms, the American public currently turns to Netflix, Hulu, YouTube, Amazon and up to 200 or so other OTT providers to view regularly scripted programming, often award-winning. These same entities are also seeking to take eyeballs by winning programming contracts from traditional providers. Consider that Amazon was awarded the streaming contract for "Thursday Night Football" at $5 million per game, an increase from Twitter's previous contract of $1 million. And Twitter has or continues to have contracts to offer the National Hockey League and out-of-market Major League Baseball games. At the same time, consumers are substituting shorter clip programming from

Facebook, Twitter, and elsewhere to fulfill their media appetite. While there is a separate debate occurring over which devices are the preferred mode for consumers, there is no doubt that the trendlines for OTT and social media are very positive.

Necessary Changes to Regulation

Taking that into account, it forces the Commission to reconsider our approach to media issues. It is imperative that we continue to understand and analyze the changing marketplace to determine what burdens, if any, the Commission should maintain or impose on those entities that we oversee. For this, I think that there is a lot of commonality among my colleagues, especially since Congress anticipated that market dynamics would evolve and statutorily-required the FCC to review our rules every four years to ensure we take into account new technologies and market evolutions.

Where disagreements tend to seep in, is over what specific steps the Commission should take to reflect the world that we now find ourselves. Specifically, the FCC has historically been over-obsessed and too reliant on the belief that the number of broadcast voices in a market is directly tied or correlated to the issue of license ownership, which is a false assumption.

Unfortunately, while perhaps well-intentioned, some of the Commission's previous polices to ensure a diverse array of voices have not worked. For example, many of the Commission's media ownership rules, written decades ago under a different market reality, have done little to advance a diverse media ecosystem. Despite a Congressional mandate to update our rules and even attempts by the FCC to heed this call, the Third Circuit, through a series of remands, has left many of our rules stagnant.

And, there are real world consequences to our inaction. For example, in November, the Commission eliminated the Newspaper/Broadcast Cross-Ownership rule, an endeavor we also attempted in 2002 and 2006 but were struck down. The courts are currently reviewing this decision and only time will tell if our rules will stand. In the meantime, newspaper readership has sharply declined. I recently had the opportunity to visit Los Angeles, where I heard from many experts that the *LA Times* had gone from a nationally recognized newspaper to a paper with a specialty only on local area news. And of course, this is not the exception to the rule. In January, it was reported that the *Mercury News*, which had a newsroom staff of 440 in the 1990s, today sits at just 39. Imagine, without our rules, if a newspaper could use the interest by a broadcaster to get better terms from a potential buyer, or, alternatively, if a broadcaster had the opportunity to invest in one of these papers and use efficiencies to keep them strong.

And, I'm talking about actual efficiencies, not the claims by some of a mere duplication of stories. I have visited numerous newsrooms across the country where I learned that broadcast partnerships can lead to the discovery of completely new stories. For example, while in LA, I toured the Brokaw Center where both NBC and Telemundo operate news stations. While each had their own studios, reporters, and staff, through collaboration, NBC could come across a story that better fit Telemundo's audience and would bring it to their attention. As a result, a story that may never have been reported gets coverage. This experience was similar to when I visited Cox Media in Atlanta, which demonstrated the possible synergies of combining television, radio, and the *Atlanta Journal-Constitution*. In both cases the end result was more local news, not less.

Of course, we don't have to rely on anecdotes. Thanks to the grandfathering of previous newspaper/broadcast relationships, we have firsthand evidence that these combinations result in more local news. According to various studies from the News Media Alliance, cross-ownership stations air anywhere between 10 to 50 percent more local news than non-cross-owned stations.

In sum, I firmly believe that our ownership rules have not worked. It's why I was so pleased to support the Chairman's order last year to eliminate some of these rules. But, more work remains.

I don't need to tell this crowd that the media market has changed significantly in just the last five years. For the most part, this has been in spite of the FCC, not because of it. Technology and the innovative American spirit have resulted in social media platforms, over-the-top providers, and Internet sites, all of which, along with cable, seek to steal the broadcaster's slice of the viewership pie. Our rules should reflect this. That is why I hope that in our next quadrennial we can redefine the media marketplace and, recognizing the vast competition in this space, downward adjust the burdens we impose.

Even without the Commission's outdated rules, I know that competing in today's market is no easy feat. Fortunately for broadcasters, you have a secret weapon, and that is localism. When I advocate for eliminating Commission regulations, I do not mean to suggest the end of the unique community service that make your services different. I've simply met enough of you to know that localism is a value you will continue with or without our mandates. Not only does localism drive audience share, but it is ingrained in every broadcaster I have met. During times of emergencies, it is the local broadcaster that always answers the call. Moreover, there is no one who highlights an issue in a community, or drives fundraising for a local cause, more than the local broadcaster. Thank goodness for you!

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I will leave it to today's able panel to answer the question, "Who is the media." It is quite evident that there are more platforms and services pushing video content and viewpoints to the American public. To me, that doesn't mean regulate you more to combat against the wild, wild west of content. Instead, it means getting out of the way so everyone, including local broadcasters, can survive, thrive, and compete in today *and* tomorrow's competitive media marketplace.

Thank you for allowing me to share some of my thoughts and I look forward to this thoughtful discussion.