

Remarks of Commissioner Mignon L. Clyburn (as prepared)
Where Do We Go From Here?
First Congregational United Church of Christ
Washington, DC
May 9, 2018

Good evening. To my dear friend Cheryl Leanza: I am incredibly grateful for that warm introduction, for your work with the many hosts that made this evening possible, and for more than eight years of friendship and support.

And to all of you, thank you all for joining me in this magnificent place of worship. I am moved by this room, not just because of its physical beauty, but because of what it represents.

When I enter this sanctuary, I am no less bothered by the many challenges before us, but the sense of comfort and ease you may note from me comes from knowing the power of being united for change.

If you were to pick up a document called the Basis of Union—the agreement used to unify the two congregations that would become the United Church of Christ—you will find the following sentiment in the preamble. This congregation affirmed its commitment to “confronting the divisions and hostilities of the world.”

Now this bold proclamation was not made at the height of the modern Civil Rights Movement, nor was it made in the days following our last Presidential election. The year was 1943, and the agreement set the stage for a congregational union in 1957. This I suppose, is why Dr. Martin Luther King asked the then director of the United Church of Christ Office of Communication, Inc., the late Dr. Everett Parker, to lead the movement against television stations that were imposing news blackouts in the south—where media outlets agreed among themselves to not cover the growing Civil Rights Movement. If it is not covered, the owners and assignment editors concluded, then it did not happen, which meant that many of the hard-fought struggles and atrocities levied against Freedom Fighters were not documented for those to see and hear.

And while many of the images and stories were indeed not captured or covered, what could not be stopped was the ultimate victory in federal court against a certain Mississippi television station, which would eventually lead to the public interest standards that are on the books today and increased levels of diversity in our nation’s newsrooms.

So, beyond the spiritual, this room holds for us—especially those of us in the communications field—the struggles of our past; our victories and progress, as well as our losses and setbacks.

And for nearly 20 years, including almost nine at the Federal Communications Commission, I have been a part of some of those victories and setbacks. If you count my time publishing a local newspaper in South Carolina, that amounts to nearly 35 years. So, forgive me if I am particularly reflective this evening, as I close one chapter of my service and begin the next.

The theme “Where Do We Go From Here?” is both appropriate for the times and challenging for me to answer because, over the past 15 months, I’ve witnessed many of our hard fought gains, which sought to balance the needs and protections of consumers—particularly our

most vulnerable—with the need and desire for competition, robust innovation, and investment, being overturned.

How do we make sure that people’s most basic needs are met by the networks designed to connect us? How can we deliver equitable access to the information and services these communities most need?

I recognized long ago that, like the natural trails and waterways relied upon by our ancestors, along the paths of these networks sprouts commerce, innovation, diversity, knowledge, and opportunity—or at least the promise of these.

But where we used to rely primarily on the forces of nature to decide which communities would be blessed with these riches, we now have the power to control and leverage where these networks flow, and who and what communities they serve. Through technological advances and ingenuity, we can overcome problems of geography or topography and ensure that these networks are navigable, and open to all. We can direct these networks to the most far flung corners of our country, through physical conduit in the ground, radio waves, or even distant signals from space. The reach of these networks, and what they are capable of, is only limited by our collective will, and the resources that we are willing to allocate.

Our communications system is special. The precious resource that these networks carry is sometime difficult to describe, yet it is intensely personal. In an instant, these networks put our voice in someone’s ear, our face before someone’s eyes, transmit our thoughts or ideas to one person or many, bring us to school, to the doctor, to the bank; they deliver our goods, provide our services, bring us help in an emergency, connect us to news, enable our leisure, and immediately give us a presence in just about any community in the world. For better or for worse, communications services seem less like a tool, and more like an extension of our selves, connecting us to what society has become.

But the communications sector does not just intersect with every other critical sector of our economy, society, and democracy; it is inextricably intertwined. Healthcare, education, energy, agriculture, commerce, governance, civic engagement, labor, housing, transportation, public safety—all rely on this modern communications infrastructure. Any weaknesses or shortcomings, systemic or isolated, will have ripple effects that can be difficult to discern, but are unmistakable in their impact.

These dynamics existed, albeit to a much lesser extent, in 1934, when Congress set out to centralize regulatory authority over the nation’s communications infrastructure in a new federal agency, the FCC. Even then, Congress recognized the “vital need” for this new regulatory body.

This agency was created with a very specific and deceptively simple task, “to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges.” Our quest to perfect our fulfillment of this goal is, ultimately, what has brought us all together tonight.

Forgive me for this rather long introduction, but for me, this context is important to place the communications policy that is so familiar to all of us, into a larger narrative. Understanding the importance of proper communications policy, and the prime directive of the agency, I championed many causes during my time on the Commission. Although some may think the

work of the Commission is highly technical, and it too often falls outside of the public consciousness, it is a doorway to larger battles of equity taking place across this country. This is precisely why it has been so important to me to ensure that we all benefit from the UCC media justice ministry's historic battles to open this space up to public participation by seeking out and elevating voices that have, too often, been forgotten or ignored.

While it was important to support sound communications policy at the Commission, I viewed this work as a means to an even greater end.

I am sure that many in this room could list, with accuracy, the issues that I have taken on during my term of service at the Commission. Perhaps now, in the spirit of reflection and as we look ahead, it would make sense for me to explain, in no uncertain terms, why I chose this path.

I believe that depriving anyone of a critical service, whether done purposefully or as the harmful byproduct of a business decision, is wrong and hurts all of us. It often robs people of their health, education, and livelihood, and sometimes much more.

I believe that denying people these services because of where they live, what they look like, or how much money they make, is antithetical to our values. When our critical networks are **not** built to rural areas, or urban areas predominantly populated by low income people, we have abandoned our charge and succumbed to those institutionalized prejudices that have long plagued this country.

I believe that the networks that we rely on should be totally free of discrimination, and should reflect our greatest democratic ideals.

I believe that our networks are more valuable to **all** of us when they connect **all** of us.

I believe that public resources should be deployed primarily on behalf of the public.

I believe that we have a moral obligation to serve the unserved and close existing gaps, while allowing existing prosperity to continue, so long as it does not cause undue disadvantage to anyone else.

And I believe that it is the role of the government to step in, when markets have failed, and the status quo looks more like stagnation.

So how did I apply these beliefs?

I fought to improve our universal service programs—to make sure that they live up to our promise of serving **all** of this country. To me, these programs are not only about wires and towers, or plans and devices. They keep us true to a commitment we made long ago: to ensure that no communities are left behind, and cut off from our economy and society. These programs attempt to confront debilitating inequality by inviting more of us onto the playing field. These programs seek to improve health and educational outcomes, and reduce the opportunity gap that exists between the haves and the have-nots. Through these programs, it is possible to leap frog the status quo, and bring the next generation of tools and resources to communities that may still be waiting for the last generation to arrive.

Our program supporting service to high cost and hard to reach areas attempts to ensure that advanced networks reach every corner of this country by subsidizing build out—the same way we did with our postal infrastructure, electricity, the railroad, and plain old telephone service.

Lifeline, which provides a modest subsidy to those who cannot afford access, is critical and necessary and in the words of the Reverend Dr. Martin Luther King, Jr.: “It is a cruel jest to say to a bootless man that he ought to lift himself up by his bootstraps.” Too often, the actions of those in power callously suggest that they think the best course of action for folks without boots is to leave them bootless and then raze their path into town. I, for one, see it differently.

Our program facilitating access to rural healthcare resources seeks to use our powerful communications tools to deliver healthcare to the hardest to reach places. But this work is about much more than that. It is about addressing health disparities experienced by rural communities across the country. It is about not ignoring our sudden declining life expectancy, and the onslaught of chronic diseases in many areas. It is, quite literally, about improving people’s lives.

And our E-Rate program seeks to tackle structural educational disparities that have plagued too many of our nation’s communities. Like it or not, just about everything has migrated online. Unfortunately, we made that transition without making sure that all of our schools, students, and communities were ready.

When it comes to delivering on the Commission’s primary objective, and ensuring universal service across this country, the stakes are high and we have no choice but to get it right.

Keeping the Internet open, and preserving Net Neutrality, is based on well-reasoned and time-tested common carriage principles. Our application of Title II of the Communications Act, with appropriate forbearance, which was advanced with great success in 2015, allowed us to maintain the objectives and values we cherish, while tailoring the rules to the technologies of the day. Broadband is now part of the critical infrastructure of this nation, on par with water, electricity, railroads, and telephones. To break from history and not treat it as such is a grave error, and one we have no choice but to correct.

This point is one that I know is not lost those assembled tonight:

Congress was explicit in carrying over common carrier requirements from the Interstate Commerce Commission’s railroad regulations when establishing the FCC in 1934. And I understand why. Congress recognized the important public service provided by communications infrastructure, and wrote what is now Title II of the statute, demanding that providers serve all comers, without discrimination or prejudice, and engage only in just and reasonable practices. As Congress said at the time, although language should be slightly revised in the communications context, the objectives were not intended to change. At the time, this wasn’t controversial. Nearly 20 years earlier, in a 1916 advertisement, the AT&T monopoly described telephone service as follows:

“ . . . [T]he subscriber is the dominant factor. His ever-growing requirements inspire invention, lead to endless scientific research, and make necessary vast improvements and extensions . . .

“The telephone cannot think and talk for you, but it carries your thought where you will . . .

“The telephone is essentially democratic; it carries the voice of the child and the grown-up with equal speed and directness . . .

“It is not only the implement of the individual, but it fulfils the needs of all the people.”

Reading this more than 100 years later, I cannot help but think it sounds familiar. The concept of common carriage is palpable in this text, as is an understanding of the virtuous cycle that it enables. I continue to believe that our action in 2015, to apply these timeless ideals to broadband Internet access service, was the right thing to do.

And when we consider, once again, whether the principles of common carriage ought to apply to the provision of Internet access service, we should not forget its importance in historic struggles against discrimination and prejudice. For instance, shortly after the Freedom Riders rode across the South in 1961, working to force action to end segregation in transportation and public accommodations, Attorney General Robert F. Kennedy petitioned the Interstate Commerce Commission to promulgate and enforce rules preventing discrimination.

He relied on a provision of the Interstate Commerce Act that prohibited subjecting any individual to “unjust discrimination” or “undue or unreasonable prejudice of disadvantage.” Nearly 30 years earlier, this provision of the Interstate Commerce Act featured prominently in the drafting of the obligations of telecommunications carriers, in what would ultimately become Title II of the Communications Act.

And yes, I fought for Prison Phone Justice. In nearly 20 years as a regulator, there is little that I have been even tempted to call evil, but this is as close it as gets. Our broken inmate calling regime is the most glaring example of the greatest and most distressing type of injustice I have ever seen in the communications sector. This issue, my friends, is not simply about the cost of a telephone call. It is about fighting the effects of mass incarceration that disproportionately impacts people of color around the country. It has to do with the strengthening of familial bonds, which have been stretched to the breaking point by the unequal application of our criminal justice system and the economic weight that compounds it. It is about maintaining community ties, promoting rehabilitation, and reducing recidivism. When an inmate’s debt to society is paid over and over and over again, by sons and daughters, mothers and fathers—in the form of these exorbitant and predatory rates—the burden is too great to all of us to bear.

I fought for greater diversity in media and against excessive consolidation, because the disgraceful reality is that today just a small handful of the thousands of radio and television stations in this country are owned by women or people of color. My goal has been to ensure that our media landscape reflects the rich diversity and strength of our local communities and while some publicly lament broadcasting as a medium in decline, look a little more carefully. Media ownership is not about getting content to people’s television sets and radios. It is a blunt instrument of power. As Congressman Luther Johnson said in an early debate about broadcast ownership in 1926, if “a single selfish group is permitted to . . . dominate these broadcasting stations . . . woe be to those who dare to differ with them. It will be impossible to compete with them in reaching the ears of the American people.” For many years, we heeded this warning. Unfortunately, in recent years, we have continuously moved in the wrong direction, to all of our detriment.

So where do we go from here? I have heard many versions of this question in recent weeks, including: “what more can we do?”

What more can we do when millions speak out in favor of net neutrality and, despite having the people and the law on our side, our leadership turns its back on decades of communications policy?

What more can we do when the nightmare of media consolidation is underscored by leadership that continues to diligently unravel the promise of broadcasting, to the benefit of the few?

What more can we do when our nation sits transfixed for days learning every detail about an invasion of their privacy and the misuse of their personal data online, but many of the lawmakers feigning concern last year voted to allow Internet service providers to do much worse with impunity?

What more can we do when broadband is universally considered a necessity, if not a human right, yet, in the face of well-known disparities, our leaders opt for platitudes over policy—and, in fact, take steps to worsen the condition of those most in need?

We fight harder.

We shout louder.

We strengthen our bonds, though shared ideals and concerted action. We escalate each time our civility is mistaken for weakness. When pushed, we push back twice as hard, confident that the moral superiority of our positions was settled long ago, if not on this earth then surely in the ether.

We do so because we must. In the face of the longest odds. In times of great upheaval and strife. If our leaders are not leading, then we lead.

The litany of injustices, and hypocrisy, and debasement—these things do not discourage me and neither should they you. They ignite in me a righteousness that I know unites all of us with an activist heart, concern for our brothers and sisters, and a care for our common future.

But it takes more than righteous anger and a willingness to win. It is not enough for us to know that we are right. We have to show we are right. We have to apply the spirit of innovation that has built these very networks and services, and apply it to our policymaking. Although the timeless values that built this space endure, and the goals that we pursue have remained unchanged for decades, if not centuries, we can never allow ourselves to think that we cannot do better. We can never stop perfecting our ideas, and the contours of our service.

Despite recent setbacks, monumental gains have been made—gains that, in truth, cannot be as easily washed away as those in the current administration may hope.

It is one thing to decline to issue a rule, or create a program, or advance a heretofore unknown consumer protection regulation. It is another thing entirely to give people a tangible sense of how things ought to be, or grant them a protection that they are entitled to, and then rip it away from them.

I have said it before and I will say it again, the FCC can either be an enabler of opportunity or a stifler of opportunity. When it opts to be the latter, it is up to all of us to sound the alarm, affirm for our constituents that this is not the way it should be done, and empower them to demand more. I have tried my best to do so by example, to be a conduit for change, an enabler of opportunities, and a voice for the voiceless. I will leave it to others to determine whether I have succeeded. I will continue to embrace solutions, and look for ways to create new opportunities.

Tonight, without question, we certainly have a long way to go, and there is much work to be done. But I believe in the fight and I believe in the people in the fight. I believe in your fortitude. I believe in your ingenuity. I believe in your love of this country and everyone in it.

I believe in the strength of your convictions as you pursue social justice and civil rights, and I know that in this space, when you reflect on our collective contributions, you look forward rather than backward, because as we move to the next phase in this eternal fight for justice and equity, know that history has affirmed that those who are united for good will win. Thank you very much.