

**Remarks of  
Michael K. Powell  
Chairman, Federal Communications Commission  
At the  
American Bar Association Summit  
“Diversity in the Legal Profession: Opening the Pipeline”  
Washington, D.C.  
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I'd like to thank Robert Grey for his gracious introduction. Mr. Grey's achievements and commitment to diversity in the legal profession has been long-standing, and it is an honor to be introduced by him.

I'd also like to recognize Mr. Charles Morgan, Chair of the ABA's Council on Racial and Ethnic Justice, and Executive Vice President and General Counsel BellSouth Corporation, who has tirelessly promoted diversity initiatives both at BellSouth and throughout the legal community.

Thank you very much for inviting me to speak at this Conference aptly titled “Diversity in the Legal Profession: Opening the Pipeline.” Increasing diversity in the legal profession is of critical importance to the Country, the Justice system, American business, and to me personally. I am grateful for this opportunity to share my thoughts with you.

**Commitment**

I would like at the outset to emphasize one important principle: diversity begins with commitment.

In this regard, I commend the ABA on its leadership in this area and on its record of commitment in a variety of areas.

I applaud the ABA and the American Law Institute for the creation of the ALI-ABA Strategic Outreach Initiative. Promoting diversity in professional outreach and legal education is the first step to achieving diversity in the legal profession.

I'd also like to acknowledge the ABA Commission on Women in the Profession, and the Commission on Racial & Ethnic Diversity in the Profession, for their efforts in the promotion of diversity initiatives. These groups have made significant strides in supporting the growth of underrepresented groups in the legal profession, and I congratulate their accomplishments.

Accomplishment is key. While commitment to the ideal is important, what really matters are actual results. We must always be encouraged by good intentions, but we should only celebrate results.

This is an important point that is often missed. We all know that achieving diversity in America has been a difficult and tense exercise. We are all nearly unanimous in not wanting quotas and the Supreme Court has rightly forbidden them in public institutions.

But, I fear the abhorrence of quotas has led us to back away from committing to results. Like any mission critical task, achievement must be real and demonstrable—diversity should be something more than aspirational.

Right now, for instance, the picture reflected by the numbers for the legal profession is not good. Although minorities represent approximately 25 percent of the population, they represent only about 10 percent of the legal profession. Moreover, while women hold approximately 42 percent of associate or staff attorney jobs in law firms, they make up only about 16 percent of the partners. We are right to seek ways to improve – ways to achieve results.

### **The Business Imperative**

One way to focus on that task is to understand another very important principle: diversity can and should be a business imperative, not just a public policy or moral imperative.

I applaud people who are good of heart, and who from a moral, policy and charitable perspective, support principles of diversity. But I question whether there are enough of these good people in the boardrooms of power to achieve diversity, and I fear that just because it is the right thing to do, does not mean we will get it done.

But there is a growing realization among forward thinking business leaders that a real commitment to diversity can be an important asset to the business of business.

Just look at the latest statistics on minority populations and their buying power.

Data from the Selig Center for Economic Growth at the University of Georgia estimated that for 2003, total buying power in the US was \$8.2 trillion and is expected to reach \$10.6 trillion by 2008. But there are significant break-downs within those figures:

- African-American buying power, \$688 billion in 2003, is expected to reach \$921 billion in 2008. By 2008, African Americans are expected to account for 8.7 percent of the nation's buying power, up from 7.4 percent in 1990.

- Latinos are expected to account for 9.6 percent of the nation's buying power, up from 5.2 percent in 1990.

- Asian-American buying power, \$344 billion in 2003, is expected to reach \$526 billion in 2008. In 2003, Asian Americans accounted for 4.2 percent of the nation's buying power, up from 2.8 percent in 1990.

This is what I mean by the phrase, the “business imperative.” These are not figures that any rational business or service industry – including the legal profession - can afford to ignore.

Nor can we ignore the fact that the United States is growing even more multiracial.

Among Americans aged 70 and older, there are 5.3 white people for every person of color -- a ratio of roughly 5-to-1. For Americans below the age 40, the ratio is 2-to-1. For children under 10, the ratio is 1.5-to-1. You can see where this trend is going.

Think about what this means in marketing terms -- Americans age 40 and older may be affected by marketing campaigns aimed at specific racial or ethnic groups.

But younger Americans view their world as more multiethnic and multicultural and they will demand that the businesses they interact with reflect that diverse world view.

Diversity must be a mission critical function in one's organization—just like proper accounting, innovation, and marketing. Increasingly, to succeed, organizations must build a cultural climate where diversity is valued, and where personal attitudes reflect a genuine recognition of diversity as an integral part of the whole.

Clearly, what is going to be critical to doing business in America will be building a workforce that looks like America

### **The Communications Sector, and the Federal Advisory Committee on Diversity**

Let me apply these thoughts to my world at the Federal Communications Commission. I have the privilege of sitting in the front row of one of the great economic revolutions in global history—the information age. This country has passed through two great prior economic revolutions, the agricultural revolution and the industrial revolution, and that it is now at the precipice of a third: the information revolution.

This revolution presents us with a historical opportunity to define and advance diversity at the ground floor. And I believe that we must push and challenge our industries to make it happen.

In order to grow and continue to provide services needed by the American people, the communications sector needs to tap the strength and vibrancy that flows from the diversity of the American people.

To make a meaningful contribution to this goal, I recently created the special advisory body – the Federal Advisory Committee on Diversity for Communications in the Digital Age to bring together experts from the communications, financial, and technology communities who could bring their personal and collective experience to bear on this issue, and develop a set of recommendations to identify potential regulatory actions and education initiatives that can promote and enhance opportunities for minorities and women.

It is not only our hope, but indeed our mandate, that this Diversity Committee not become a ceremonial post, but instead that it be a working body that helps direct the Commission toward the worthy and worthwhile goal of diversity in the modern communications workplace.

To this end, there are two significant dimensions to this particular Advisory Committee that I think will make a big difference in its output and potential for success.

The first dimension is the make-up of the committee. I believe that to accomplish meaningful results in any endeavor, it is people more than programs that really make the difference, and thus I set out to find, and tap for this committee, the best minds I could find from all walks of life with proven records of innovative and successful initiatives and leadership.

We have assembled a group of leaders for this committee who have enjoyed great personal professional success and have a proven record in fostering diversity in organizations. The personal and professional successes of our Committee members will give them the perspective needed to understand what works, and what doesn't. Their experience, dedication, and creativity can make the difference in this effort.

The Diversity Committee, and the initiatives it will produce, can ensure that this country will bring the full force of the many talents of its citizens to bear on the challenges of this new, third revolution in human society. Such efforts will help ensure that when our children look back on this era, it will be more with pride and wonder than with shame and sadness.

The second dimension is the committee's charge: to identify and model successes and not dwell on past failures in dealing with diversity issues. Too many public and private efforts in the past have only looked at problems. This committee will be looking for and building on examples of progress, success and accomplishment.

The focus of this particular Advisory Committee – and indeed the imperative for all companies involved in the information revolution, is to look for goals of diversity flow - not just to promote minority employment in communications companies, but minority advancement within those companies, and minority ownership of those companies. Moreover, this Committee should look at all of those issues not just for media companies but for all telecommunications and other companies that the FCC oversees.

I hope that the efforts of this committee will help to convince American corporate culture that diversity is a business imperative that will differentiate marketplace winners from marketplace losers. Businesses must know their customers, and in a diverse nation devoted to the principle of equal opportunity for all, the business justification for diversity should be clear.

Bringing this back to my earlier point, what we are looking for from this committee – and from all corporate America - is a focused and sustained effort designed to produce results

I have been a part of several diversity initiatives, and I know that results are much harder to produce than words of encouragement. Enduring results can emerge only from careful thought, fervent idealism, hard-nosed pragmatism, and sustained effort.

Results must also come from creative approaches and problem solving. A solution that appears obvious and easy may not be a solution that can withstand a court challenge that will inevitably follow, which is, perhaps, the most difficult challenge confronting us as we work to achieve our goals. We cannot keep walking into the same old walls that have stymied progress in the past, and we must engage in a hard and rigorous assessment of the constraints.

### **Tax incentive and Congress.**

Finally, as we think about ways to encourage greater diversity in communications, it is important to reach beyond the FCC and encourage legislative and private initiatives as well.

On the legislative front, I support legislative efforts to restore a program akin to the old tax certificate program.

We know that tax incentives work. Many view the market-based tax certificate that existed from 1978-1995 as the single most effective tool in lowering market entry barriers and diversifying opportunities in the communications industry. Admittedly, there were some problems with this program, but those can be effectively addressed.

I strongly urge Senators and Congressmen from both sides of the aisle to join together behind tax incentive legislation and let these mechanisms help expand minority participation in the information revolution.

### **Conclusion**

In conclusion, I wish the ABA good luck with your efforts, but exhort you not to rest on good fortune.

Seize the cause and drive diversity with the full bearing of your creativity, your commitment, and your resolve.

Do not rationalize failure with your good intentions. Rather, put down your sword only after the battle is won.

Let's accelerate our commitments, and bring about true and meaningful results. All participating businesses – and all of America – will be better for it.

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