

**Prepared Remarks of Commissioner Mignon L. Clyburn
Before PLI's 28th Annual Telecommunications Policy & Regulation Institute Conference
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Thank you Bryan, for that warm introduction, and for the contributions *you* are making to the industry through FCBA's incredible programs and service. The volunteer partnership with the FCC on broadband adoption and utilization initiatives will reap dividends in our communities for years to come.

I could speak all day about the importance of adoption, technical literacy, and the growing—not *shrinking*—need to wire anchor institutions. We all get frustrated when we see troubling statistics on adoption rates in low-income and rural communities, but incredible initiatives are taking hold in key areas of this nation, that keep us hopeful. Good things are happening, because we recognize the benefits of leveraging resources and coming to consensus. And it's in the spirit of consensus building, that I wish to lay the foundation for my remarks this morning.

I say this with the utmost sincerity: most of the time, we all really work quite *well* together. Consensus *has* been achieved, on a number of crucial initiatives, and I'm confident it will continue. I will always do everything in my power to never stand in the way of progress and innovation, which are both in our best interests. But my eyes will always be on the consumer, as is my duty, and I maintain that all of these concepts are *not* mutually exclusive. The best victories are realized, when all sides put their best feet forward to collaborate and coordinate.

One of my Christmas wishes, and I will put a stamp on the letter to Santa later today, is that consensus will be reached in as many areas as possible—particularly with regard to a small matter we are currently considering: the Open Internet proceeding. This item affords all stakeholders a perfect opportunity to work toward a solution that, while not perfect, is just right for consumers and the future of the online universe. And let me assure you that our office will be working day and night, until the 21st, in the hope of achieving that goal. I, like many of you, am weary of the stand-offs, pontificating, greed wars, and tough guy posturing—although I must admit that Fred Upton's line about being all over this debate “like a dog on a Frisbee,” is a line I intend to borrow for future debates.

What I'm trying to say is that we have wasted a lot of time and energy in this town, by not focusing on the merits of this pending item, and we are ultimately doing the American people a grave disservice. From this day forward, I would like those from *all* sides of this debate, to proceed in a way that can bear real fruit, because I still believe that we have an incredible opportunity to get it right this time.

So let's start from a place of general agreement. There is already consensus that an Open Internet is critical for America.

I look back to the 2005 Policy Statement, which made clear that consumers had a right to the lawful content, applications, services, and devices of their choice. At that time, some argued that a policy statement wasn't necessary. But as the years have passed, more and more parties have realized that guiding principles regarding the protection of an open Internet are helpful, and allow for greater certainty.

The predictions of doom and gloom did not come to pass. In fact, what did occur was more innovation and investment, the creation of high-tech jobs, and the success of companies and services that

did not exist a decade ago—all thriving as a direct result of the open platform of the Internet. The importance of the Internet grew so much, that by early 2009, Congress acknowledged the need to ensure that every American has access to it, and asked the Commission to formulate a plan to reach that goal.

Congress also allocated significant monies, to ensure that networks would be deployed in unserved areas, and that citizens could be educated on how to use the Internet to improve their lives. Despite these important developments, the continuation of an open Internet is still not assured. We are aware of some actions that have threatened its openness, and as such, I believe we should act to ensure that the Internet remains open, so that innovation and investment can flourish.

And on the point of investment—what I’ve learned in my many years as a public servant in the regulatory space, is that investment is impacted by more than just regulation. When we consider investment, regulators must also weigh what consumers have already spent, and how they and other industries collectively rely on an open Internet to conduct their lives and businesses.

Remember when Black Friday was the cute term relating to the post-Thanksgiving shopping spree? Well, Cyber Monday is gaining traction, with over \$1 billion dollars spent on that day this year. I say this to illustrate that this space is important for every aspect of our economy, and its openness has ensured that it has become more and more vibrant with each passing day.

But back to the importance and utility of consensus: During the past year, we observed consensus in action, when Verizon and Google put their collective heads together, for the specific purpose of finding common ground. They first submitted a letter to the Commission highlighting their commonalities, followed by a proposal on which they both agreed. While those two companies may not agree on every single facet of open Internet principles, they reached agreement on several important standards.

More generally, we have observed that many companies, public interest advocates, and other stakeholders, have been engaged on these issues during the past 14 months, at the Commission and on the Hill, and I am greatly encouraged by the increased communication. It is my belief that collaboration can work when all parties are committed to the process.

We have seen this demonstrated in other parts of our industry, with one example being our proceeding leading up to the E-9-1-1 Order that the Commission adopted in September. It sent an important message about the direction our communications industry should take, with regard to improving public safety communications services. I was extremely pleased to see APCO, NENA, AT&T, Sprint, T-Mobile, and Verizon Wireless, reach a workable compromise on standards that put the safety of our citizens ahead of other interests.

Broad consensus between members of our communications industry, and groups representing people living with disabilities, was also critical to the swift enactment of the Equal Access to 21st Century Communications Act. This important legislation gives the Commission greater statutory authority to adopt rules, which will offer people living with disabilities greater access to video programming, and the most advanced voice and data services on the market. This is another terrific example of how industry consensus and collaboration can play such a vital role in delivering much-needed services to all Americans.

But regarding the open Internet, you still may be asking—“do we really have a chance at true consensus,” and “why should the Commission act now?” Let me address the latter question first.

At the end of the day for me, this is about consumers. Their access to an open Internet must be protected, because I believe that currently, there are no clear, enforceable rules. We need guidelines—or in the Chairman’s parlance—“rules of the road,” so that providers know precisely what is acceptable behavior and consumers clearly know their rights.

For those of us who would welcome a legislative solution, I must highlight a statement recently made by one of my colleagues: It may take Congress multiple tries, and numerous years, to pass key legislation. Some of the finest minds in this country are hard at work up there, but despite their best efforts and one of the finest, most intelligent, and I must say best-looking Majority Whip operations of all time, consensus is incredibly difficult to reach.

Seventy-six years ago, Congress created the FCC to ensure that our nation’s wired and radio communications are promoted and developed for everyone’s benefit. It is our job, as an agency with subject-matter expertise, to address these key communications issues that impact this country.

We were established to deal with just these types of difficult, technological issues, and agencies like ours are best suited to serve this country in this manner. While Congress can often take a long time to act, the Commission is often more nimble and best able, to adapt to the dynamic changes in the marketplace. Let me re-state, that I am not opposed to Congress acting, but if it takes a number of years before effective policy takes shape and gets implemented, that potential lag time could actually do more harm, by perpetuating uncertainty in the marketplace. Investors, innovators, and consumers, deserve and demand certainty, and I am a willing and able partner to that end.

So I look forward to working with the Commerce Committees in the House and Senate. I am eager to interact and collaborate with old and new friends. My office will reach out to every Member on the relevant subcommittees in the new Congress, and I am anxious to hear about what’s important to all of them. Inclusion is my style, because inclusion *works*.

So, do we have a consensus item in front of us? I think we are pretty close. But my focus over the coming days will be to ensure that we are thinking through the implications of the wireless piece of the item. While I recognize that there are distinctions between wired and wireless networks, I think it is essential that our wireless networks—those of the present and future—grow in an open way just as our wired ones have.

This “equality”—let’s call it—is particularly important because some Americans are “cutting the cord” and using wireless devices as their main access point to the Internet. We should ensure that, while there are two kinds of networks, we don’t cause the development of two kinds of Internet worlds. Aside from technical differences, the basic user experience should be the same.

Some have raised the issue that different rules are needed in the wireless arena because it is more competitive than the wired world. But I believe we cannot ignore the fact that there are many features of the wireless market that create high switching costs, such as exorbitant ETFs and a lack of handset compatibility across carriers.

I still have many questions, and look forward to continuing to engage with all segments of the market and public interest groups to help us find the most equitable solution.

Conclusion

So while I possess beliefs and ideals, that are just as strong as anybody else's, this will be a joyous season for me if we were to work toward achieving consensus for the greater good. I am committed to working as hard as I possibly can to find common ground. So, in the spirit of the sagely Dr. Seuss, I will hang up my holiday stocking with care, in hopes that very soon, we *all* will get there. And should anyone see the Grinch lurking around the halls of the FCC, trying to steal my hope for consensus, just call my office, aka "Whoville."

Thank you and good morning.