

**REMARKS OF  
FCC COMMISSIONER MICHAEL J. COPPS  
FEDERAL COMMUNICATIONS BAR ASSOCIATION LUNCHEON  
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What a come-down for Ralph. Sunday night he was lollygagging with Lady Gaga at the Grammys and this noon he's introducing Mike Copps to a bunch of telecom lawyers. I love Ralph. Huey Long, once asked to describe himself, said he was *sui generis*—one of a kind. That's Ralph. Or, as his new friend, Lady Gaga, might describe him, "Born That Way." Born smart, born funny, honest-as-can-be, and oh! so effective in getting things done and knowing everyone—and I mean *everyone*—in town, Ralph epitomizes all the good things about our Washington culture. Thank you, Ralph, for your introduction—and for just being you.

Another good thing about Washington is FCBA. I've always had such admiration for this group. Not just because so many former Copps Team members are part of it. It's because of the friendship so many of you have shown, the example you set as an organization with high standards, and the fantastic mentoring you do. It's no secret that the Commission generally, and me personally, rely greatly on the members of your organization, the people in this room, for insights, perspectives and—probably more often than I have a right to expect—good counsel. But the FCBA is about so much more than just highly-skilled legal representation; it is also about highly-motivated social responsibility in serving the communities in which you live. And you have had an amazing string of good leaders here, most recently with Bryan Tramont at the helm, filled with new ideas, doing creative things, bringing in new people. So I'm proud and happy to be here. Much happier than I'll be tomorrow morning when we traipse up to Capitol Hill to talk about Net Neutrality—probably not so neutrally either.

Speaking of the Copps team, I see quite a few folks who I've had the pleasure of working with these nearly 10 years at the Commission. You fed a lot of them at FCBA lunches while they worked for me—I hope they're paying their way now because most of them can afford it. I wonder if those folks in the room who are willing to admit their association with me would be kind enough to stand and be recognized. Praise them for whatever good things I may have accomplished and blame me for the rest! Seriously, these were—some still are—great public servants, and I consider them each and every one to be Copps Family.

I am particularly honored to join you in marking the fifteenth anniversary of the Telecommunications Act of 1996. I was tempted to call this talk, "The Act That Never Was" or "The Act that Never Got a Chance," but I demurred. As a Commissioner at the FCC, I have had a front-row seat for ten of those fifteen years. In many ways, we find ourselves worlds apart from where started in terms of technology and mind-boggling innovation. But some things stubbornly remain the same. This much we know to be

true. We are still looking for competitive markets, we are still trying to modernize USF, and we still have plenty of Reed Hundt's people at the Commission.

In preparing for today's luncheon, I looked back over the press accounts from the morning after the passage of the 1996 Act. I have to admit, I was a bit surprised how many of the concerns were the same as those we confront today. But, for me, it was Vice President Al Gore's words at the signing that really captured the true goal of the Act. He said then, and it resonates today, "I firmly believe that the proper role of government in the development of the information superhighway is to promote and achieve at every stage of growth, at every level of operation, at every scale, the public interest values of democracy, education, and economic and social well-being for all of our citizens. If we do not see to it that every project, every network, every system addresses the public interest at the beginning, then when will it be addressed?" In other words, to reiterate a favorite phrase of mine, the public interest must always be our lodestar.

Competition—true competitive choice for consumers—is one of the best ways to safeguard the public interest. The conference report for the 1996 Act describes it as "provid[ing] for a pro-competitive, de-regulatory national policy framework designed to accelerate rapid private sector deployment of advanced services and information technologies and services to all Americans by opening all telecommunications markets to competition." Sadly, some in industry—and two former Commissions—tended to focus more on the term "de-regulatory"—which, as I hope most of us remember, was really aimed at removing regulatory barriers to entry—than on "pro-competitive." And, through strategic litigation—a knife that in some ways cut the heart out of the 1996 Act's implementation—a few powerful interests created enough uncertainty and delay to drive potential competitors out of the market and to create something quite different from what Congress had intended. I don't blame companies for seeking to enhance their positions, but I do blame lax implementation and enforcement by those who are supposed to make our statutes work.

But as we look back at the 1996 Act, we shouldn't get too caught up in what-might-have-beens. Instead, we all should focus on what still can be. The Communications Act—with its 1996 amendments—remains the law of the land and the Commission's enabling statute. We work with it until we're given something else. But there's plenty of "there" still there in the Act. We can do much of what needs to be done with what we've got. But it will require some uncommon working together on the part of each of us and all of us—public and private sector, rural and urban, Republican and Democrat—to build the communications infrastructure upon which so much of our future prosperity depends.

As a former Congressional staffer myself, I always recognize the value of guidance and input from our oversight committees. And I believe I will find there some common ground—perhaps more than many of you expect. There have been lots of shifting majorities and minorities in this town since I came here in 1970. Fritz Hollings told me, and then he showed me, how good things can get done no matter which one of those categories you're in.

I believe that Congress, the Administration and the Commission share common ground on the importance of broadband for a better and brighter future for America. That's not to say we don't have some differing views on the best ways to get there, but given the importance of advanced telecommunications, I am hopeful we can build on our areas of agreement. Broadband intersects with just about every great challenge confronting our nation today—jobs, international competitiveness, education, energy, health care, overcoming disabilities, news and information, and our democratic dialogue. There is no solution for *any* of these challenges that does not have some broadband component to it. We can't get from here to where we want to go without putting information infrastructure more effectively to work for us. It's an absolute necessity for economic growth, job creation and tackling all these other challenges. This is infrastructure we're talking about. Building infrastructure has always meant, for more than two centuries now, jobs. And building the infrastructure of the Twenty first century means jobs—good jobs—now. The country's physical infrastructure is on the brink of collapse and our information infrastructure is behind that of many other countries. Tell me how that can be good for America!

All Americans—and I mean everyone—need access to robust and affordable broadband. To help meet our shared broadband goals, the Commission took an important step forward last week toward transforming the Universal Service Fund and Intercarrier Compensation systems to meet the needs of our broadband future. In the last century, our commitment to Universal Service ensured that most of our citizens—urban and rural—had access to plain old telephone service. Now we need to make sure that everyone has access to the advanced telecommunications tools they need, regardless of where they live and whether there is a business case to deploy broadband there. If we had waited for a business case to justify ubiquitous rural electrification, large swaths of this country would still be in the dark. To be sure, private industry needs to lead the way on broadband deployment, but it falls upon policy makers to establish a legal and regulatory environment that encourages broadband deployment, promotes adoption, fosters competition and safeguards consumers. All of us benefit when more of us are connected.

I have served at the Commission through many iterations and attempts at Universal Service and Intercarrier Compensation reform. While we have resolved some discrete issues and made adjustments along the edges, I think we now have our best chance in years to really and comprehensively reform these systems. But talk about hard choices! To truly reshape these systems will require a commitment to shared sacrifice and an ability to rise above the clamor for whatever piece of the status quo has been beneficial to any one particular private interest. I hope, and I expect, that we will have a comprehensive transition plan in place before the end of this year, including formative Reports and Orders that will put us well down the road toward a system we've waited for way too long. And as we design and do all this, let's not forget we need to work with our state colleagues as partners in the transition. The 1996 Act envisioned a level of federal-state cooperation in implementing the statute that has not yet been achieved. In this regard, I am so happy to see my friend and colleague Ray Baum, Chairman of the Oregon Public Utility Commission until a few weeks ago, working now for the majority on the

House Telecom Subcommittee. What a great resource he is for the Hill and for all of us—and for a closer federal-state relationship.

Spectrum policy is another area where we must—and I am convinced we will—focus attention this year. Just last week, in a remarkable speech, President Obama called for high-speed wireless broadband for 98% of American households. It was only appropriate that he did so at Northern Michigan University. I had the opportunity to visit that campus myself a few years ago. Thanks to its vision and leadership, and with FCC authority to use Educational Broadband Service spectrum for its WiMax network, NMU became one of the most connected campuses I have seen. It's a fantastic model for many others. And it's a network that benefits not only NMU, but also the surrounding K-through-12 school systems and the community writ large.

As broadband users want ever-faster speeds and mobility, the demand on our nation's finite spectrum resource skyrockets. We must work hand-in-hand—the Administration, the Congress, the Commission, industry and all stakeholders—to find ways to make additional spectrum available and to make better use of our supply by expanding flexibility and improving efficiency. To that end, I have long supported efforts for a spectrum inventory—the FCC's creation of the Spectrum Dashboard is a first step down that road—to examine what spectrum is actually being used, how it is being used, how intensively it is being used, and whether particular slices of spectrum can be put to better use to serve consumers. Our spectrum-hungry country cannot afford to let wide swaths of valuable airwaves go un- or under-utilized. Meeting this challenge won't be easy. We can't put all our eggs in any one basket or program—and we're not—but there are difficult obstacles to overcome and complex trade-offs to consider whenever spectrum use is changed.

While we are on the topic of spectrum, I would be remiss if I didn't talk about public safety and the needs of our first responders. "The safety of the people is the first obligation of the public servant," Senator Hollings used to tell me. We are fast approaching the ten-year anniversary of 9/11. *The 9/11 Commission Report*—which I encourage everyone to revisit—lays out in altogether chilling detail the lack of communications readiness that so hampered our country's ability to respond on that terrible day. It's going on ten years later and, quite frankly, it is inexcusable where we are in implementing a nationwide and interoperable public safety network. **Every** public safety organization should have access to a reliable system that they can use **anywhere**, to talk to **any** other first responder, in **any** emergency. We need to take significant and tangible steps and we need to do so **this year**. While some progress has arguably been made, we are nowhere near where we need to be. Here's the perfect place for bipartisan action. And I am pleased the new session of Congress is beginning with a real sense of priority devoted to this problem. With this level of attention in Congress and at the Commission, I am hopeful that we can finally make good on the promise of giving America's first responders the tools and resources they need to protect us.

Let me turn now to media policy. You knew this was coming and you invited me anyhow! As most of you know, I don't go anywhere without talking about what has been

my top priority since I came to the Commission. At the beginning of December, I delivered a speech at Columbia University's School of Journalism that got some attention. Fox News Channel's Bernie Goldberg worried that I wanted "to shut down conservative talk radio" and Bill O'Reilly wondered if I was "going to begin calling shots here on The Factor." Let me be clear: neither is true. And neither has anything to do with what I was actually talking about. Imagine that from those two! But it's not their opinions I worry about. I have lots of opinions, too. And I like to express them. But what you and I are getting these days is too much opinion based on opinion and too little news based on fact. For all that over-hyped 500 channel universe and bevy of websites, it is more and more difficult to find real news and information in today's media landscape. In truth, the news is suffering from a bad case of substance abuse. That's not just because the news is hard to find; it's because there is much less of it. And there is much less of it because there is much less real journalism going on in our country today. When you lose a quarter or a third of your newsroom reporters, something's got to give. Well, it gave.

So, on this anniversary of the 1996 Act, we should pause to think about what has been lost. I wish I could say that the Act had been implemented in such a way as to foster a media environment with more diverse ownership, more local content, more independent production, and more competition. But statistics tell the opposite story. We have witnessed a 39% drop in the number of owners of radio stations in the last 15 years. Similar consolidation shrunk television. In 2010, there were 150 fewer owners of commercial TV stations—a 33% decrease. And, while 34% of the U.S. population consists of minorities, only about 3% of full-power commercial TV stations and 7.7% of radio stations are minority-owned. That's bad for citizens, bad for the country, and I believe it's bad for broadcasting, too.

Congress gave us some pretty clear media goals in 1996, telling the FCC to promote "diversity of media voices, vigorous economic competition, technological advancement, and promotion of the public interest, convenience and necessity." We have certainly seen some incredible technological advancement, but we have thus far failed to deliver on the diversity, competition, or public interest part of our charge. Just to be clear: this is not about right wing talk radio or left wing cable TV hosts. This is about making sure there is media about, and originating from, the local communities a station serves. Many broadcasters are still working hard and doing their job—don't get me wrong—but the frenzy of the marketplace and the lack of responsible public interest oversight has made life tougher for them and much less rich for consumers.

To that end, in my December speech, I called for the Commission to restore credibility to our broadcasting license renewal system by adopting a "Public Value Test," rather than the current rubber stamp of the status quo. Some say it's a digital age now and there is no need to focus on broadcast and traditional media. Data points to the contrary. A recent Pew study found that 78% of respondents identified television as the source of their news, the highest percentage for any platform. Yes, it's true that the barrier to self-publish has never been lower, and that there are millions of websites to choose from, and innovation and collaboration are providing some impressive results.

But newspaper and broadcast newsrooms still provide the overwhelming bulk of the news citizens receive—whether they receive it in the paper, over the air, or online. Scholars of the trade tell us that 85% or 90%, perhaps even more, of the news people get online *originates* from these traditional sources. It's just that it's a much slimmer, pared back version of its former robust self. An in-depth report from the Annenberg School released last year documented that in the typical 30 minute local news broadcast, less than 30 seconds are given over to cover hard local government stories. If it bleeds it leads—but it's democracy's life-blood that is hemorrhaging.

Without accountability journalism, American citizens are left trying to glean information from attack ads and overly-opinionated talking heads. In many parts of the nation there may literally be nowhere else to turn. Twenty-seven states have no full-time reporter accredited to Capitol Hill. Statehouse coverage has been slashed by a third in the past six years. How's that for our ability to hold the powerful accountable?

We can do so much under our existing authority to help restore diversity, localism and competition to our media landscape. In those areas where we can't, Congress may ultimately want to examine rules governing the structure of media ownership and perhaps other parts of our enabling statute. But the Commission can act *now*. It should have acted on media before now. I am disappointed that it has not. But in the spirit of mentoring for which the FCBA is so justly famed, I want you to know that I consider it the duty of any former Chairman to help mentor his successor. So since handing over the reins of my Acting Chairmanship, I have been doing my part to "Pay It Forward" on my media issues. I'll get back to you on how things go.

I also hope that, as part of the nation's discussion about the future of the media, we can all engage in a calm, serious and non-knee-jerk discussion about increasing support for public broadcasting—the jewel of American media. The sad reality is that, in this country, we spend, per capita, per annum, \$1.35 supporting public media. In other democracies, citizens happily pay up to hundreds of dollars more than that. Public media enjoys high levels of public trust in our country, investing in its future is investing in our future, and talk of zeroing out this funding leaves me totally incredulous.

Ensuring that all citizens have access to worthy media, to the news and information our democratic dialogue requires, is not a new challenge for our country. Washington, Jefferson and Madison understood that their fledgling country's future depended upon an informed citizenry, and they found ways—notably a postal subsidy for the national distribution of newspapers—to ensure the widest possible dissemination of news and information to fuel the nation's conversation with itself. That's what the grant of broadcast licenses much later was all about, too. So our forebears were talking information infrastructure in the 1780s just as much as we are talking information infrastructure in 2011. Times and technologies change, but our democratic challenge remains the same. It's to keep our civic lifeblood flowing.

On a related note, I have been calling—both internally and now publicly—for the FCC to launch a Notice of Inquiry to examine disclosure in political advertising. In the

last election cycle close to \$3 billion was funneled into political advertising. We the people have a right to know who is bank-rolling these ads beyond some wholly unidentifiable group set up to mask the special interest it really represents. If “Citizens for Spacious Skies and Amber Waves of Grain” is really under-written by a chemical company that doesn’t want to clean up a toxic dump, I think viewers and voters would probably want to know that. Both sides of the political spectrum are guilty of this undemocratic sin of omission. Anonymous ads sidetrack our civic discourse. Better to put a face on them and let the people see.

As we tackle issues of today’s media, we have to remember there is much more to it than just the deployment and adoption of broadband technology. One measure of success will be the extent to which our citizens have the digital literacy needed to use these liberating new tools of the Digital Age. We all need to understand—especially our kids—how these tools can help—or harm—us. I believe a worthy down-payment toward building this into our educational system is a K-12 online digital-media literacy curriculum, which local schools would be free to use or not. Many private and public entities have developed parts of such a curriculum. Now it’s time for a private-public partnership to get it up-and-running.

Amidst all I have talked about, I remain an optimist. I believe the year ahead, with all the challenges it portends on these and so many other issues, can be a good one for America. We have quite an occasion to rise to in this great country of ours, but really understanding the starkness of the challenge can bring us together to do what needs doing. It’s happened before. Many times. And those are the occasions when the history of our country always shines brightest, aren’t they? In that spirit, I thank you for giving me the chance to share some thoughts with you and, once again, to enjoy the good fellowship of this fine organization. I appreciate both your warm hospitality and your attention.