

**Remarks of Gigi B. Sohn**  
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**“Halftime at the Wheeler FCC”**  
**Remarks to The Media Institute Communications Forum**  
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Good afternoon. Thanks to Dick Wiley and Patrick Maines for inviting me to speak today. I’m honored - The Media Institute is an important and respected voice on the communications policy matters that the FCC deals with every day.

As many of you know, the NBA Finals start tonight featuring THE Cleveland Cavaliers as my boss might say. Golden State may be the favorite, but 2015 has been a big year for surprises by folks from Ohio – and I’m not just talking about college football.

If I had to use a football metaphor to describe where we are at the FCC today, I would say that we’re at halftime – although without rest or refreshments. Chairman Wheeler was sworn in 19 months ago today, and by my calculation, we have about another 19 months to go. So it seems to be a good time to take stock of what the FCC has accomplished over that time and what the future holds.

But before I do that, I was asked to speak a little about what I’ve learned during my tenure at the FCC. Even now, people ask me - what has it been like going from an outside advocate and critic of the agency to a government insider for the first time? What lessons have you learned?

To start, I’ve learned that while there are obvious advantages to having a seat at the table every day while important policy decisions are being made, governing is very hard, and governing wisely is even harder. This is true even when you are in the majority, and the perfect can often be the enemy of the good. As an outsider, you can be the advocate for the ideal outcome and you can stick to that message without wavering. But when you are governing, you have to balance many different equities to find what is ultimately in the public’s best interest. For the FCC, the equities to be balanced include, among others, free speech, economic growth, investment, innovation, competition, and diversity of viewpoints and ownership. And you must, by law, consider the opinions of a wide variety of individual, non-profit and industry stakeholders.

Second, I’ve learned that there is a marked increase in the intensity of interest in, and dissection of, what you say and do when you are a public servant. For 25 years my public interest colleagues and I tried to get the mainstream media interested in communications policy issues. Having apparently succeeded, I’m here to say, careful what you wish for.

In my prior life I could get away with the occasional provocative quote, blog or tweet. In fact, it was pretty much expected and sometimes even welcomed. Now I parse my words and make sure that my emails are boring. My Facebook feed now has only pictures of family and kittens. In my prior life, there was never a camera I didn’t want to be in front of or a comment I wanted off-the-record. Now “off the record” is the first thing I say to a reporter. And I write every email, social media post or blog post as if it could one day appear on the front page of the New York Times.

Third, I've learned that the so-called "captured agency" is largely a myth, and it is an easy fallback for those who don't like what the agency has done. Everyone I have worked with at the FCC, be they political appointees or long-time staffers, has impressed me with their desire to produce the best communications policies for the American people.

Finally, and happily, I've learned that you don't have to stop being an advocate when you join the government. I'm not talking just about me – all of my colleagues are advocates for what they believe in. Early on, the Chairman invited all of us to disagree with each other – and with him – on the best path he should take. It's no secret that the Chairman is a disciple of Abraham Lincoln, who famously had a cabinet that disagreed with him and with each other, what Doris Kearns Goodwin calls a "Team of Rivals." I don't know how common this kind of debate is in government, but its value is clear – being confronted with all sides of an issue will result in far better decisions than will sitting in an echo chamber full of yes men and women.

As much as I loved being a public interest advocate, I am delighted to have this opportunity to serve the public inside the government. Every day -- yes, every day -- we make decisions that affect the American people. To be able to sit at those tables and have input in that decision-making is the most gratifying thing I have yet done in my career. The results are tangible, and if not immediate, close to it.

So let's talk about results in our first 19 months. I won't belabor the big decisions that make the papers seemingly every day, like open Internet, mergers, community broadband, E-Rate and spectrum auctions. I'd rather focus on those actions that didn't get as much attention, but impact the everyday lives of Americans. Decisions like getting the major wireless companies to agree to unlock their cellphones; requiring those same companies to certify annually that their networks can withstand the damage done by natural disasters; requiring that all wireless carriers enable text to 911 and provide better location accuracy in an emergency; requiring cable operators and broadcasters to improve their closed captioning; eliminating the sports blackout rule; simplifying our consumer complaint system; and last, but not least, using the power of our enforcement authority to ensure, among other things, that consumers' privacy and data are protected and that network operators who engage in fraudulent billing practices are called to account.

It's those lower-profile decisions that have an immediate and direct effect on the lives and well-being of Americans that make me especially proud to be a part of the FCC.

So what should you all expect in the second 19 months? I think you all know by now that this Chairman won't rest on his laurels. We are far from finished with the Chairman's agenda, which is centered on ensuring that all Americans have access to fast, fair and open broadband networks. There are numerous decisions in the pipeline, but I want to highlight five:

- **Lifeline Modernization:** Led by its Managing Director Jon Wilkins, the FCC did a masterful job of bringing the E-Rate program into the 21<sup>st</sup> Century by focusing support on getting broadband to, and Wi-Fi capacity in, schools and libraries. We had to make some tough choices on both process and funding, but the result is a more effective and efficient program that concentrates on the most important communications needs of America's kids and library patrons.

Now we must engage in a similar process with Lifeline. Starting in 1985, Lifeline has provided a small subsidy first for wireline and then for wireless telephone service. While the FCC in 2012 imposed critical reforms that have drastically cut down on waste, fraud and abuse, there is still much more to be done to bring the program into the 21<sup>st</sup> century. Last week the Chairman circulated a notice of proposed rulemaking that will not only propose more reforms, but will also propose that Lifeline be used to subsidize broadband. For the past year and a half, Americans told us unequivocally that access to broadband is essential to full participation in our society and our economy. The FCC must ensure that everyone, including the poorest and most vulnerable, can share in that benefit.

- **Over-the-Top Video:** In December of last year, the FCC issued a notice of proposed rulemaking which recommended updating the agency’s interpretation of the term “multichannel video programming distributor” or “MVPD”, to make it technology-neutral. Under our proposal, any providers that make linear streams of programming available for purchase, including over-the-top video services, would be MVPDs. The Chairman believes that this approach will ensure both that incumbent MVPDs continue to be subject to pro-competitive and pro-consumer obligations as they transition their services to the Internet, and that new over-the-top video providers will have access to the programming and other tools they need to compete with established video providers.

I view this issue as a win-win-win for the incumbent MVPD and broadcast industries, but most importantly, for consumers. Cable and satellite companies that have their own linear over-the-top offerings will benefit from the rights that being an MVPD confers. Similarly, broadcasters will get another source of retransmission consent revenue from those services that choose to carry broadcast stations. And new business models that might emerge bring new alternatives to consumers already adapting to how they view their programming.

- **Tech Transitions:** From his very first days in office, Chairman Wheeler has emphasized that the values underlying our communications system must be preserved as that system transitions to all Internet Protocol. These values include universal access, interconnection, competition, consumer protection and public safety. To move the IP transition forward expeditiously, we put a call out for experiments by which we can measure the impact of the transition on consumers. And in November of last year, the FCC adopted two notices of proposed rulemaking that propose rules intended to preserve those important values.

The first proposes a 911 governance structure designed to ensure that the technology transitions are managed in a way that maximizes the availability, reliability, and resiliency of 911 networks, as well as the accountability of all participants in the 911-call completion process.

The second item concerns the process for shutting down legacy networks and services – in FCC parlance, “retirement” or “discontinuance.” Although new IP-based networks have brought great new choices to millions of Americans, millions of homes continue to choose traditional copper networks for voice communication. Recognizing that we are reaching a tipping point, this NPRM proposes to update the Commission’s rules that govern the retirement of legacy networks and the discontinuance of traditional services in a way that protects the values I mentioned earlier.

Specifically, to ensure public safety, the NPRM proposed to take steps to ensure that consumers using these next generation networks and services can reach 911 and other emergency services even when the power goes out. To protect consumers, the NPRM proposed new transparency measures to ensure that they know what is happening to their voice service when carriers propose to take it away – and what they can do about it. To protect competition, the NPRM included proposals to ensure that small- and medium-sized businesses do not have the benefits of competition taken away from them.

For a proceeding that is so critical to consumers, the tech transitions docket seems to be flying under nearly everyone’s radar. But setting the rules of the road for the transition from legacy networks and services to the next generation of networks will be one of the Chairman’s highest priorities over the next 19 months.

- **Incentive Auction:** From the very first day Chairman Wheeler took office, there has been no higher priority than ensuring that the historic incentive auction meets its goal of harnessing the economics of demand for spectrum in order to allow market forces to determine its highest and best use. Following the work done under the leadership of Chairman Genachowski and Acting Chairwoman Clyburn, the FCC has made a series of important decisions that have set the stage for a successful incentive auction. At this moment there are several auction-related items circulating among the Commissioners, with more to come in the months ahead. We remain on track to accept applications in the fall, and to hold the auction in the first quarter of 2016.

At the same time, the Incentive Auction Task Force has been crisscrossing the country, educating broadcasters about the once-in-a-lifetime opportunity the incentive auction brings and what they need to know to participate. Participation is purely voluntary and new channel sharing technologies offer broadcasters an opportunity for an infusion of cash while continuing to provide their traditional services to consumers. The education process seems to be taking hold as broadcasters large and small have expressed interest in participating.

- **FCC.GOV 2.0:** While fixing the FCC’s website and our 18 year old Electronic Comment Filing System won’t bring fast, fair and open broadband to American households, it will go a long way to making the agency more open, transparent and responsive.

You may have seen the new prototype for the website, which will be far easier to navigate and will have more information that both professionals like you and the general public can use. We really want your feedback on the prototype and on future iterations of the website. And yes, ECFS 2.0 is next. As many of you know, the system could not withstand the input of nearly 4 million comments in the open Internet docket. The new system will live in the cloud, making capacity nearly irrelevant. Moreover, the new ECFS interface will be simple to use, and we are re-indexing the entire database to make documents more easily searchable.

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Let me conclude by suggesting that if you've been enjoying a little break from the pace of Tom Wheeler's FCC game plan the past three months, it's time to lace up your cleats, strap on your shoulder pads and fasten your helmet. The second half is starting, and it promises to be as busy and as challenging as the first. But remember, in the words of the immortal Ohio State football coach Woody Hayes: "Nothing that comes easy is worth a dime."

Thank you.