

Remarks of Commissioner Mignon L. Clyburn
Opening Remarks – “State of the Video Marketplace Workshop”
Federal Communications Commission (FCC)
April 25, 2016

Good morning. First, let me thank our participants, including those who traveled great distances, for agreeing to take part in today’s discussions as well as the FCC’s Media Bureau, for hosting this workshop on the State of the Video Marketplace.

On more than one occasion, each of you if forced will admit, to being stuck in a vortex of perpetual channel flipping. This Twilight Zone-like state, is where your thumb has a mind of its own, but soon it experiences a level of fatigue, you never thought possible, as it advances the directional channel button again and again and again. Or maybe you fancy yourself as more sophisticated. You then are a channel cruiser, who navigates the hundreds of television channels, with advanced menu categories where you search in a more efficient and elegant manner. Whatever state of being describes you best, as you each surf for programming, the conclusion drawn, is more or less the same: hundreds of channel options, but nothing you care to watch.

Many describe our current era as the Golden Age of television. We have access to a myriad of video programming from a variety of platforms including broadcast, cable and online streaming services. Still, when it comes to finding independent and diverse programming, I often hear, the options are too few.

Independent and diverse programmers from every conceivable ideological spectrum, say that when it comes to offering much requested, desired and needed niche programming to the masses, they face insurmountable challenges when it comes to program carriage. These challenges range from simply being able to acquire carriage; to difficulty receiving fair or reasonable contract terms; to prohibitions on growing their online distribution model because program distribution access is often restricted via contract.

Is there an answer for those frustrated consumers seeking more diverse programming, as well as programmers looking to expand their reach to more households? Is there a disconnect and if the answer is yes, where is it? And does this all mean that our existing system is broken and if so, who should fix it?

These questions were among the many, that led me to push for the Notice of Inquiry adopted by the Commission this past February. This fact-finding exercise, asked many important questions, including whether Section 257 of the Communications Act provided the Commission with authority to impose regulations aimed at improving programming diversity. The NOI also asked whether the use of alternative distribution method (ADM) and most favored nation (MFN) clauses thwart competition, diversity or innovation.

With increased consolidation of the video marketplace, I also continue to hear from smaller operators who suggest that the practice of bundling constrains their ability to carry independent programming. The NOI asked about the impact of this practice; whether there are instances of independent programmers being dropped or not carried at all due to the constraints of bundling; and whether the move away from large pay-TV bundles, has a disproportionate

impact on these independent programmers. The comment period is now closed, but just over 36,000 comments had been filed in the docket including many of which were filed by individual consumers. I continue to review the record, but I am confident that today's workshop will shed further light on these and other important questions.

At last week's NAB Show, I questioned if potential benefits could come from ATSC 3.0, a proposed next generation broadcast standard. With its ability by some accounts, to use a single six megahertz broadcast channel to distribute as many as six to eight separate high-definition channels, I am eager to hear whether broadcasters would use this increased capacity to enhance diversity on the public airwaves. When the recently filed petition reaches the full Commission, this will be among the key questions I intend to ask.

Finally, our discussion of the video marketplace would not be complete without an examination of the over-the-top market and the potential it holds for enhancing access to independent and diverse programming. Of course, to truly enjoy this online content, consumers need access to affordable, robust high-speed broadband. While I will save my thoughts on the state of the broadband marketplace for another day's conversation, there is no doubt great opportunity to expand the availability of niche content through online video platforms.

According to a study released earlier this year by USC's Annenberg School for Communication and Journalism, streaming services are already doing better than mass market films when it comes to onscreen diversity. Of note, the study found that women held 10 percent more speaking roles on streaming services compared to standard commercial films. Similarly, African Americans and other minority characters had nearly three percent more speaking roles on streaming services than in mass market films which for now, appears to mean that an increased number of media platforms, helps to provide a voice for additional independent and diverse programming.

Once again, I am grateful to those who made sacrifices to participate in this important workshop, the FCC, particularly the Media Bureau who organized it and those watching online from home or work. With the completion of today's workshop, I am confident that we will have a clearer understanding of the challenges facing the video marketplace. Armed with this information, the Commission will be better positioned to identify solutions that can enhance our access to independent and diverse voices. Thank you.