

**Remarks of FCC Commissioner Michael O’Rielly
Before the International Broadcasters IdeaBank Conference in Buffalo, New York
October 18, 2016**

I am sure it’s already been said, but I want to offer a heartfelt welcome to Buffalo. For me, I am so pleased to be back in Western New York. This is my hometown area and I spent almost twenty years 20 minutes down the street in a city called Lockport, sitting on the Erie Canal. For those of you unfamiliar with Greater Buffalo, it has a reputation of inhospitable winters, lovely summers and a proximity to two Great Lakes, Niagara Falls and Canada. In all fairness, the weather critique is well earned and actually *embraced* by its citizens: it takes something special to endure the challenges of relentless snow and penetrating winds. Just to give you some idea of what we are up against, here is a picture of the effects of a November 2014 snowstorm:



The Weather channel:

https://twitter.com/weatherchannel/status/535070065792933888/photo/1?ref_src=twsrc%5Etfw

At the same time, you are here among some of the best people in all of the world: honest, hardworking, faithful and patriotic. And, the Buffalo area also celebrates its vast ethnic diversity as thousands flocked here over the centuries to work on the canal and other projects, bringing with them their local traditions and comforting cuisine. Now if we could only find a way to win at least one Super Bowl...

On a more serious note, the spirit of the IdeaBank resonates so well with me and exemplifies how I have tried to operate during my time at the Commission. For over 50 years, you have been coming together, without a top-down agenda, to discuss ideas and concepts that could possibly benefit

others or, with collaboration, become something even bigger. It's my understanding that, in the IdeaBank's earliest days, much of this brain-storming took place in the form of letters that individual members would write and circulate, memorializing and describing innovations that they had implemented successfully, or thoughts on how to improve current practices in the industry. I often use my blog on the FCC website for a similar purpose, and though this organization may have a better track record getting ideas adopted than a minority Commissioner, I continue to throw out my ideas in search of the occasional, encouraging consensus. I'm happy to be here with you today and looking forward to a discussion that will surely generate an addition or two to my own idea bank.

A good part of my focus at the Commission has been on opening closed doors for broadcasters to leverage new technology and reinvent themselves and the industry. In many ways, the Commission's approach to broadcasting remains stuck in a bygone era. The good news is that there have been some small successes and some movement in the past couple of years as one by one, outdated rules are being challenged and reformed. For example, I suggested that the Commission act on a 2012 broadcaster petition to update the 40-year-old Contest Rule. With consumers spending more and more of their time online and seeking information of every type there, it seemed nonsensical for the Commission to deny broadcasters the opportunity to put the terms of promotional contests online rather than speed-reading through long lists on-air. I am hopeful that the success of this reform will spur similar efforts to allow broadcasters to use the Internet in fulfilling other requirements, such as sponsorship ID and widespread advertising of employment opportunities.

Another recent area of reform involves the move to transition the public inspection files maintained by broadcasters to an online format. While I may have preferred a more flexible approach, if we are going to require broadcasters to put their public files online, instead of providing a paper version to anyone walking in the door, they should be able to put *all* of their public files online. The Commission needs to follow through on the benefits of the online public file by eliminating correspondence file requirements for broadcasters, as I requested when the order was adopted. At the present time, we're just waiting to move forward with a final order to relieve the correspondence file obligations.

Additionally, last month, the Commission altered its old ad hoc foreign ownership approval procedures to allow broadcasters greater access to capital. As a practical matter, very few requests were ever made, due, in part, to an international perception that, despite the Commission's positive rhetoric, any actual request was highly unlikely to be approved. Therefore, significant potential capital has remained on the sidelines, and U.S. firms trying to invest internationally in communications companies have run into roadblocks set up by foreign governments acting in response. After some nudging on my part, we have now replaced this old process with streamlined new procedures that should make it much simpler for broadcasters to gain approval of new investments by foreign individuals or entities.

On another front, many of you are likely following the Commission's efforts on AM revitalization, which my colleague Commissioner Pai has been instrumental in moving forward. After a lot of consternation, we were finally able to reach accord and provide many AM radio stations with new options to compete in the ever changing marketplace. The Order provided multiple windows – exclusively for AM broadcasters – to relocate FM translators in order to rebroadcast AM signals, and many have been taking advantage of the opportunity. The last of these minor modification windows will close at the end of this month. Then, next year, the Commission will open two FM translator auction windows, so those AM stations that did not apply for a modification will have an opportunity to apply

for a new FM translator. Meanwhile, the Order provided several forms of relief for AM broadcasters planning to modify their facilities in some way, such as modifications of community coverage standards for existing stations, elimination of the AM ratchet rule, and a reduction in the AM antenna efficiency standards.

Several questions and proposals remain outstanding, many of which were included in the further notice and NOI sections of the item. I believe the Commission could and should split off some of the proposals, such as relaxation of the main studio rules, in order to expedite further relief. There is no reason to delay relatively simple and noncontroversial measures like this while trying to put together a larger package.

Many interested parties are actively commenting on other ideas that have been raised, including opening the Expanded Band to further development, changing protection requirements or expanding the allowable range for translator signals, allowing primary status for FM translators, or creating a new class of FM licenses. Generally, I am all for proactive movement on any proposal that will benefit the radio market as a whole. However, we must take care to resolve any pressing concerns that the notice and comment process is designed to flag for us. For instance, just two weeks ago the Commission received a bipartisan letter from the Chairman and Ranking Member of the House Homeland Security Committee's Subcommittee on Emergency Preparedness, Response, and Communications urging the Commission to steer away from any action that could impact the ability of FEMA to provide timely emergency alerts and warnings to the public. This came on the heels of FEMA comments filed in the record on the same subject. We will take these concerns very seriously as this issue develops.

Unfortunately, the thoughtful and collaborative process we are seeing in the AM revitalization world stands in sharp contrast to the Commission's misguided, partisan decision in the recently-concluded Quadrennial Review of media ownership rules. By law, Congress requires the Commission to conduct this review every four years, a timeframe that has been roughly ignored as the Commission follows one nonsensical decision with another and is dragged into court over and over again for its troubles. Given the unrealistic nature of the latest attempt, I would predict the Commission's lawyers will be seeing a lot more of the Third Circuit for the foreseeable future. At this point maybe our Office of General Counsel should consider a branch office in Philadelphia?

You would think that the sea changes we have witnessed in the media space since the rules were last effectively updated in 1999 would dictate some major changes in the artificial market barriers initiated during the Johnson and Nixon Administrations. These rules may directly impact your business by constraining the permissible acquirers for stations, thus depressing station valuations. And they apply only to broadcasters and newspapers, exempting all of the other players that have emerged in the media scene, such as streaming music services or satellite radio. Not that I would have any interest in extending the rules to other market segments, but it is incomprehensible and patently unfair that broadcasters alone should be kept on this particular regulatory leash while their competitors roam the radically-expanded landscape relatively free of Commission interference.

Moving into next year and beyond, I am hopeful that at some point in my tenure, the Commission will relent and take a more realistic view of the current media market, including non-broadcast and non-newspaper competitors in its analysis. In Washington DC, the devil is in the definitions, and the Commission's tunnel vision regarding the market you are dealing with is driving its continued poor decision making. An updated market definition could set the table for us to better

promote localism, competition, and diversity by thoughtfully removing outdated restrictions to media combinations.

So there you have a good portion of my idea bank when it comes to radio. Given my past experiences with radio broadcasters, I suspect that some of you will have more to add. And I want to take this opportunity to reiterate that I am all ears when it comes to initiatives where I can help make your job a little easier. To be more specific, here is a copy of the appropriate FCC's Code of Federal Regulations that contains over 550 pages of rules applicable to radio services. I challenge you to help me reduce those that are no longer needed or appropriate in the current marketplace.

Thanks so much for your attentiveness and for all that you do to serve your local communities.