

Remarks of FCC Commissioner Mignon L. Clyburn (as prepared)
2017 WTA Spring Meeting
Hilton Head, South Carolina
March 13, 2017

Good morning, everyone. While the temperature outside maybe 20 degrees below normal, I trust that our friendly faces and this beautiful place are enough to warm your hearts and spirits.

Paul, thank you for such a kind introduction. It has been seven years since my visit to Cordova, Alaska. When we met that summer, your company was still relying on satellite backhaul. How great it is to hear that with your business acumen and drive to improve Cordova's network, you have been able upgrade to fiber backhaul. No wonder WTA made you its President. I am also glad that we are able to meet again under less dangerous circumstances. Flying on a bush plane is not my preferred mode of travel.

A lot has changed since I last joined you in Texas, both for you and for the FCC. For one, there are more people in the room because WTA is no longer "Western-only." What has not changed, however, is your commitment to providing vital connectivity, to some of the most rural and hard to serve communities in the country. Since the techie community also includes a disproportionate share of original Trekkies, myself included, you will understand when I congratulate you for boldly going where no broadband provider has gone before.

For another, the FCC has changed a lot and done even more. We have seen more than one transition by way of leadership, the agency completed and defended its Open Internet Order, we adopted broadband privacy rules, reformed inmate calling services, conducted multiple spectrum auctions, took steps to combat rural call completion problems, and reformed three out of the four universal service programs. And we are not done.

I would like to address three broad topics today: our progress towards 5G, continued universal service reform, the media landscape, and close with a look at this new era at the FCC and my role in it.

According to the latest research, mobile data traffic has grown 18-fold over the past five years and was projected to increase seven-fold between 2016 and 2021. We have seen the need for mobile data continue to grow as more American consumers take advantage of their smartphones and tablets in ways unheard of even a few years ago.

The FCC is hard at work on ongoing initiatives and is looking to the future, with a focus on maintaining a flexible spectrum policy that meets this continuing growth in wireless broadband demand. We are examining new ways to make the rules for existing spectrum bands more flexible, so users can adapt to changes in technology and market needs. And we are working with our federal partners, to implement creative spectrum sharing regimes that promote co-existence of a variety of use cases in spectrum bands.

As we move to the next generation of wireless, the FCC's overall strategy includes making spectrum available in low, mid, and high frequency bands, with flexible rules.

The Incentive Auction, which was authorized by Congress five years ago, will free up 84 megahertz of valuable low-band spectrum for licensed and unlicensed use cases. \$19.6 billion in gross winning bids is the second highest total proceeds of any Commission spectrum auction.

Last year, we established new rules for the 3.5 GHz band. For this mid-band spectrum, the Commission adopted a tiered licensing model that creates a huge opportunity for access to at least 80 megahertz – and in some places 150 megahertz of spectrum – without going to auction. This is a great chance for all users to get access to a substantial amount of spectrum, where and when it is needed.

And last summer, the FCC took a momentous step towards bringing next generation wireless technology to consumers by making nearly 11 gigahertz of high-band spectrum available for licensed and unlicensed use. The governing rules, which balance different approaches such as exclusive use licensing, shared access, and unlicensed access, will enable established industry players and entrepreneurs to develop innovative offerings for consumers.

Opening up spectrum above 24 GHz is just the next of many steps in the path towards 5G technologies. Standards as to what these technologies entail will not be available until later this year, and we do not expect 5G products to come to market until 2020. Wireless providers and equipment manufacturers, are conducting demos and launching trials, so we are on the verge of really seeing just how fundamentally, fifth generation wireless technology, will change our lives and the ways we interact with each other and our communities.

In rural communities, we may see the technology used as “wireless fiber,” to bring down the costs of last mile deployment, and it will positively impact many industries such as agriculture and telehealth. But with all of the focus on 5G, we must not lose sight of the fact that in many places, there are citizens eagerly awaiting 4G, or even 3G. And while I think it is important to focus on and plan for 5G, I believe it is equally important to ensure that we are working hard to provide 4G services in rural America.

This is why I was pleased to finally take action on Mobility Fund Phase II last month. The seeds of this started almost a decade ago. In 2007, my state colleagues on the Federal-State Joint Board on Universal Service, wisely called on the FCC to adopt a universal service support mechanism, to bring mobile service to unserved areas. The FCC heard that call, and in 2010, we voted to kick off a proceeding to bring mobile service to areas that at that time, did not have 3G.

We brought the first part of that proceeding home in our landmark reforms of the universal service high-cost program in 2011, kicking off a one-time \$300 million injection of support, to immediately accelerate deployment of mobile service in unserved areas, and a separate one-time \$50 million of support targeted to Tribal areas. I saw the fruits of the latter on my #ConnectingCommunities Tour in Torreon, New Mexico on Navajo Nation, a place that would not have received mobile service without our Tribal Mobility Fund.

It is absolutely critical, that consumers have access to robust mobile voice and data services, regardless of where they live, work, or travel. Consumers expect an always-on, everywhere-available connection, and have for some time now. This was an issue that had languished at the Commission for far too long, and I am happy we finally made Phase II of the Fund a reality.

I also want to spend a minute, on the importance of backhaul. You do not need me to say this, but backhaul is a significant part of any rural company's bottom line, and I have heard numbers as high as 30% of operating expenditures devoted to backhaul by mobile providers. In too many areas, the incumbent LEC is the only game in town. That can mean extreme market power, inflated prices, and bad deal terms. Unfortunately, the Commission's Business Data Services proceeding has not yet borne fruit, but make no mistake, I am deeply committed to finding a way to address these issues.

Just under a year ago, the FCC adopted significant universal service reforms to place the high-cost program on solid footing for the next decade in order to "preserve and advance" voice and broadband service in areas served by rate-of-return carriers. It took bipartisan collaboration with Chairman Wheeler and Commissioner O'Rielly to make standalone broadband a possibility, while ensuring that cost controls and mechanisms to reward efficiency were put in place. It was also clear that a further notice was necessary in order to ensure that the universal service fund pays only for expenses related to the provision of service.

Like with any significant reform, there are choppy waters ahead that need careful navigation. So when I see that standalone broadband service costs as much as it does, it is a recognition that more work needs to be done. There are steps that I think you can take, that some of you are already doing, and there are steps that the Commission can take. Let me offer some suggestions for each.

First, partnerships have the capability to help your bottom line, and provide a benefit for your communities. Some of the best examples I have seen when it comes to creating a win-win for providers and communities alike, have come from innovative public-private, and private-private partnerships. This may include targeted builds in Economic Development Zones, where tax and other local incentives can help defray the cost of infrastructure. It also may include partnerships with the municipality for necessary connectivity—be it for public Wi-Fi or connected parking meters. Aggregating demand to plan efficient builds—be it via shoe leather or innovative online tools—can also help increase your return on investment.

Second, we need to tweak some of the areas you have raised as concerns with how our rate-of-return reforms have been carried out. I hear you when you talk about affordability, and the need to have flexibility to price your services as you see fit in the market. I am concerned, about the affordability of rates in both rural and urban areas. It is a shame that deregulation has often meant higher rates in both urban and rural areas. But I believe rural areas should not be penalized, simply because of poor legislative or regulatory judgment. That is why I would support hitting the "pause" button on rate floor increases, while we figure out a path forward that does not unduly impact rural consumers or the universal service fund.

I would also support fixing our rules regarding the per-location cap on the capital investment allowance. As it stands, the rules chill investment by harshly penalizing carriers for just going a dollar over their allowance, by forcing them to lose all of their capital expense cost recovery. A punitive limit like this was not what I had envisioned when I voted for reforms to our rate-of-return mechanisms. This cannot stand, while we are simultaneously asking you to push the envelope, and efficiently build out broadband to more locations.

But while we are opening up these issues, I would also like to move to deploying USF dollars more efficiently. Every dollar that is wasted in the high-cost fund, means a dollar that is not going to support your networks. I would simultaneously like to move forward, on addressing some of the costs that we have seen some carriers include in the rate base. Things like artwork, corporate jets, corporate boats, and paying the mortgages of company employees: the universal service fund should not be paying for these, much less guaranteeing a return on these “investments.” This means we need to act on the FCC’s Further Notice, to exclude these costs from the rate base. Excluding these costs would further free up additional dollars, to ease the budget controls, that I know some of you are acutely feeling.

Turning to video, I know many of you have faced barriers when it comes to acquiring the popular programming that you need to compete in the marketplace, and that your customers rightfully expect. I share those concerns.

As a regulator, I see my role as taking the steps necessary to break down barriers that can inhibit competition and consumer choice. I know many of you were disappointed that the Commission did not act on retransmission consent reform last year. According to SNL Kagan, retransmission consent fees are expected to rise from \$7.7 billion last year, to \$11.6 billion by 2022. At the same time, we are seeing an increase in programming costs across the board. A report out last year, predicted that total programming costs, will expand at approximately 4.3 times the speed of aggregate multichannel video revenues through 2019. Ultimately what I hear, are consumers who are frustrated with the rising cost of pay-TV service, and in many cases, are cutting the cord as a way to reduce their monthly bill.

Like the challenges you face in negotiating with large programmers, independent cable programmers struggle to gain carriage, particularly when dealing with the largest pay-TV providers. For years, independent and diverse programmers from every conceivable ideological spectrum have come to me to share the challenges they face when it comes to being able to provide most requested, desired and needed niche programming to the masses. 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.

Responding to these concerns and at my urging, last February, the Commission adopted a Notice of Inquiry which set us on the path to answer the questions of frustrated consumers seeking more diverse programming, as well as programmers looking to expand their reach to more households. Then in September, after building a record that totaled more than 36,000 filings, the FCC adopted a Notice of Proposed Rulemaking (NPRM) on independent programming. In this NPRM, the Commission focused on two of the worst offending practices

facing many independent video programmers: “unconditional” most favored nation (MFN) clauses, and unreasonable alternative distribution method (ADM) provisions. With the comment period recently ending, I am hopeful that the Commission will move to an Order that ensures independent and diverse voices have a place in a vibrant media landscape.

Let me close with a look at the past and an eye toward the future. It is no secret, that the FCC looks very different now than it did in December. The difference in my role and status are readily apparent. I was in the minority as a commissioner here in South Carolina for many years, so that is not foreign to me. But, as I have said before and will repeat now: I always start at the 50-yard line when it comes to formulating policy with anyone who may see the world differently than I do. However, I will never entertain compromising my principles. Removing consumer protections and harming competition, are always going to be non-starters for me, but I will continue to sit at the table, even when we are discussing issues that have practical impacts, that may make me uncomfortable.

During my eighteen years as a federal and state regulator, I have seen the both seismic shifts in this industry, as well as the problems of infrastructure that simply do not go away. The fundamental question is always this: how do we get robust and affordable communications services, to those in areas where it is uneconomical to serve? Chairman Pai may have different answers than former Chairman Wheeler, but we are all working to achieve the same goal of a “rapid, efficient, nationwide” network, as the Communications Act so charges.

Everyone in this room shares that goal. Your individual networks, often built in difficult areas to serve, are extremely valuable for what they enable, and are particularly important because they are all part of one great, connected network. You each make it possible, for a seasonal fisherman in remote Port Wells, Alaska, to see a video of his newborn in Cambridge, Idaho. Connectivity is empowering, equalizing and essential and for all of your work in bridging the digital and opportunities divide in our great nation.

I look forward to visiting with you over the next couple of days to continue to share with you my vision of ubiquitous connectivity, and hear from you about how you are serving your local communities.

Thank you.