

## **“THE NEW NORMAL”**

### **REMARKS OF COMMISSIONER GEOFFREY STARKS MEDIA INSTITUTE VIRTUAL LUNCHEON WASHINGTON, DC MAY 11, 2021**

Thank you, Rick, for hosting me here this afternoon. I am honored to join you for this virtual luncheon at such a critical time in our industry and in our Nation. We have collectively been through so much since the last time I spoke before this group in what I affectionately call the “before time.” For me, it is still opaque in what ways we will and will not get back to our pre-pandemic lives. You remember—when we used to shake hands with strangers and greet friends with hugs, revel in dinner parties, even drop our kids off for play dates. Those were the days ...

Now we are all trying to figure out what the post-COVID “new normal” will look like. We at the FCC are still working from home. Like millions of American households, my spouse is also working from home, and we are both juggling duties that include home school for our two young learners. The word “hybrid” has never been more apt.

So I wanted to take a bit of time this afternoon to talk about my priorities, both in the context of our larger “new normal,” and of course in the context of the start of a new administration.

#### **Priority Number One**

My top priority for the year ahead, which should surprise no one, is continuing the work we have been laser-focused on all year: making sure all Americans have access to high-speed broadband. Here, in year two of our battle with the COVID-19 pandemic, we are enduring the lingering effects of a multi-layered crisis that has reverberated across healthcare, education, the economy, widespread job losses, and food insecurity.

I truly believe, as the late Congressman John Lewis said, that access to the internet is a civil right; in fact, he said it is “the civil rights issue of the 21<sup>st</sup> century.” There are multi-variable reasons why we have Americans that remain disconnected. I need not visit each of them here, but for years now I have focused, in particular, on the fact that for tens of millions of people across this country, they remain disconnected because they lack access to an affordable home broadband connection. And even now, Black people and other people of color in America are still, by a wide margin, significantly less likely to have a home broadband connection than their white counterparts. An essential piece of our broadband deployment challenge is creating digital equity by bridging the digital divide and the opportunity divide.

There has been real movement on this front, and legislation has required us at the FCC to sprint. We have worked to implement and administer the Emergency Broadband Benefit (EBB) to provide discounts to households on the cost of broadband and toward the purchase of a tablet, laptop or desktop computer from a participating provider. Additionally, in March, Congress passed the American Rescue Plan Act of 2021, which created a \$7.17 billion Emergency Connectivity Fund. Just yesterday, May 10<sup>th</sup>, we voted on rules to provide for the distribution of funding to eligible schools and libraries so they can purchase eligible equipment and services for use at locations other than a school or library. In looking to the future more broadly, President Biden has included in his \$2.3 trillion infrastructure package, known as the American Jobs Plan, a targeted \$100 billion dollars to connect every American to high-speed broadband.

So why am I talking to a Media Institute audience about broadband? One simple reason is that broadband is important to all of us as consumers of media content, much of which is accessed with the help of broadband. Further, it seems like every few months there is a new service or provider with the potential to cut into the number of those relying on broadcast for their news, entertainment, and information. This has been accelerated in some ways by the pandemic, where so many other options for live and in-person activities have disappeared.

But here's the good news. Broadcasting has always been a steady and reliable resource to Americans. And now more than ever, Americans still rely heavily on broadcast media to navigate the challenges associated with the COVID-19 pandemic. Moreover, television broadcasters seem to be holding their own during this time of crisis.

A [study](#) late last year indicated that broadcast TV was the most pervasive medium accessed during the pandemic, reaching 84 percent of Americans surveyed. Further, local broadcast TV proved to be the most trusted news source among adults 18 and older, and broadcast news generally was found to provide the best information and updates on COVID-19. Local TV news shows attract [25 million](#) nightly viewers, garnering significantly more attention than national cable programs.

Note the emphasis here on *local*. Localism is one of the pillars that guides the FCC's regulation of broadcasting, and now more than ever local TV stations must rise to the challenge of continuing to serve local audiences while at the same time navigating the evolving media landscape and managing the evolving needs of their diverse populations of consumers. I note a very recent [study](#) by BIA Advisory Services confirming that local news produced by local broadcast stations is "the most trusted, highly consumed and valued news source." The same study also details, however, the strain that technology platforms have placed on the business model through the steady loss of compensation and advertising revenue.

The pandemic has also had a measurable impact on radio stations, as demonstrated by a different metric that tells a story consistent with trends that have existed for many years because of disruptive technologies and applications like satellite radio and streaming services that attract listeners away from broadcast radio. According to the FCC's [latest numbers](#), there has been a pandemic-related "[silent impact](#)" on the number of radio stations. Comparing last March to March 2021, there were four fewer licensed commercial FM stations and 34 fewer AM stations. From the beginning of the first quarter of 2021 to the end of the quarter, 17 commercial FM and 5 AM stations stopped broadcasting.

Perhaps the tide will turn with this summer's planned auction of four AM construction permits and 136 FM construction permits as part of [Auction 109](#) scheduled to begin on July 27<sup>th</sup>. In my view, the unique ability of radio to target specific audiences where they live and work gives broadcasters a competitive advantage, and I believe that local broadcast radio and TV will continue to play an important public interest role for years to come.

### **The Future of Media Diversity**

Another key pillar of broadcast regulation is diversity. At the beginning of this new administration, we have a perhaps unique opportunity to make progress on issues for which the needle has not moved in some time, despite their importance and despite regulatory and statutory mandates to address them. I am specifically talking about the Commission's responsibility to promote and ensure diversity in media ownership, management, and employment.

As a Commissioner, I have spent a lot of time thinking about how to advance diversity in the media industry. The FCC must make sure that every aspect of this industry—from who owns the license

to who makes decisions in the production room to who sits in front of the camera—reflects our diversity. Why is diversity so important? Because what we see and hear, and who we see and hear it from, impacts the way we view our world, our society, and ourselves.

Several recent stories in the news have highlighted the extent of the lack of diversity in media and tech and its impacts. One recent investigation highlighted allegations that a major television broadcaster had cultivated a hostile work environment that included bullying female managers and blocking efforts to hire and retain Black journalists. Closer to home for me personally, in December the Kansas City Star issued an apology, acknowledging that over decades through its news coverage the paper had “disenfranchised, ignored and scorned generations of Black Kansas Citizens” and “robbed an entire community of opportunity, dignity, justice and recognition.” The paper further explained why: “Like most metro newspapers of the early to mid-20th century, The Star was a white newspaper produced by white reporters and editors for white readers and advertisers.” Other papers, including the LA Times, have made similar public apologies.

These stories highlight the real and impactful harm that can come from a lack of diversity among those who own and control the media. Clearly, there is still much work to do to ensure that owners and employees at media companies better reflect the makeup of the communities that they serve.

### **The Future of Media Ownership**

With regard to the lack of diversity in media ownership, the status of the Commission’s regulatory efforts had been uncertain pending the Supreme Court’s decision in *FCC v. Prometheus Radio Project*. At issue in that case was the FCC’s decision to relax certain ownership limits that it had determined were no longer necessary due to dramatically changed market conditions, including the Newspaper/Broadcast Cross-Ownership Rule, the Radio/Television Cross-Ownership Rule, and the Local Television Ownership Rule. The same panel of the Third Circuit Court of Appeals had heard every challenge to the Commission’s Quadrennial Review of its media ownership regulations since 2003.

The Commission has repeatedly asserted that it has a statutory duty under Section 202(h) of the Communications Act to assess the effects of its ownership rules on minority and female ownership, consistent with the agency’s traditional public interest goals of promoting competition, localism, and diversity. The Supreme Court found that the three ownership rules at issue were no longer necessary to serve the agency’s public interest goals, and that the rule changes were not likely to harm minority and female ownership. However, nothing in the decision disturbed our long-established ruling that the Commission can take into account how diversity will be affected by our media ownership decisions.

That’s a big win for agency deference under the Administrative Procedure Act that should provide the necessary space to revisit our rules with diversity front and center as a consideration. That means we can now move forward confidently to address media ownership in the 2022 Quadrennial Review. As I noted in a statement about the *Prometheus* decision, we can and should approach this task “in a manner that is data-driven and otherwise fully consistent with our duty to promote and ensure competition, localism, and diversity in the public interest.”

The numbers on ownership diversity indicate that we have real work to do. According to our most recent broadcast ownership data from 2017, no minority group was better off in owning more full power commercial broadcast television stations than they owned in 2015. Out of 1,385 stations, African-Americans owned just 12 stations in 2015, and two years later they still owned just 12 stations. That constitutes 0.8% of overall stations. Several other minority group ownership numbers got worse in 2017. American Indian or Alaska Native women lost all 8 stations in which they held a majority ownership

interest in 2015. Women overall lost ground as well, representing only 5.3% of full power commercial station owners, down from 7.4% in 2015, despite making up more than half of our population.

Taking a broader lens, the [trends of ownership](#) over the last 40 years are striking. In 1983 there were about 50 dominant media companies. Today there are five media conglomerates that own about 90 percent of the media in the United States, including newspapers, magazines, movie studios and radio and television stations.

This consolidation may not seem problematic if you consider all of the competition these companies face from the internet. Moreover, if you consider more broadly how video streaming services have disrupted broadcast television viewing in a major way—especially during the pandemic—media consolidation might seem to have even less potential impact. [Nielsen reports](#), for example, that over the last year, video streaming has increased by 7% over linear TV and video on demand, going from 18% to 25%, with Netflix leading the pack.

On the other hand, I still come back to the importance of broadcast as a medium because of its pervasiveness, and because of the fact that the public airwaves belong to all of us. There is an inherent value in allowing many different voices in the public arena. One way to achieve that is encouraging and supporting diversity and independence in our broadcast media outlets.

The airwaves that we use to provide broadcasting are a finite, public resource. With such a limited number of stations available in each market across the country, there are very few opportunities for new entrants to have a real shot at purchasing a station. It is not clear whether media consolidation will accelerate following the *Prometheus* decision, but I certainly have a renewed interest in using the next Quadrennial Review to ensure that the pillars of diversity, localism, and competition are fully considered in determining what future media ownership regulation should look like. We should take a close look at everything and see what makes sense in today's markets.

### **The Future of EEO**

It is just as important that broadcast stations and other media employ managers and staffs that reflect the audiences and communities they serve. Since joining the FCC more than two years ago, I have championed the necessity for us to restart the collection of EEO data to help us develop a better understanding of the media workforce. We have a statutory obligation to monitor broadcaster employment practices and ensure that broadcasters provide equal employment opportunities, and our failure to collect EEO data has hampered our ability to determine what regulatory actions are necessary to ensure equal employment opportunities.

For almost two decades, there has been no collection due to stale questions about confidentiality and constitutionality. You may have heard that the Acting Chair circulated a Notice of Proposed Rulemaking earlier this year, to seek comment on restarting the EEO data collection, which I was happy to support. Further, I welcome the debate over whether there are any valid outstanding concerns—constitutional or otherwise—about how to proceed with fulfilling our statutory obligations here and ensure the promotion of diversity in broadcasting. This inquiry is long overdue, and I hope we can move the proceeding forward in short order.

### **The Future of Accessibility**

One final topic I will mention, because it should always be top of mind as we figure out the right regulatory path forward on existing media as well as new technologies, is accessibility. We must always

prioritize these concerns to ensure that as technology moves forward at breakneck speed, the Commission fulfills its obligation to ensure that regulated services and devices are accessible.

To that end, I am pleased to note that last month we released a [Public Notice](#) inviting comment from all stakeholders on whether any updates are needed to our accessibility rules. These are the rules that were initially adopted when the Commission implemented the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), enacted to help “ensure that individuals with disabilities are able to fully utilize communications services and equipment and better access video programming.”

It covers several areas and statutory objectives in the video programming market, including requirements for access to video programming, closed captioning of Internet-protocol (IP) delivered video programming, accessible emergency information, and user interfaces that make functions such as captioning accessible and usable to individuals with disabilities. It also covers audio description, which makes programming more accessible to individuals who are blind or visually impaired by inserting audio narrated descriptions of a television program’s key visual elements into natural pauses between dialogue. Notably, the Commission recently adopted rules to extend requirements for broadcasters and other video service providers to provide audio description for programming in 40 additional marketing areas over the next 4 years. I look forward to developing a record on this important opportunity to update these regulations to ensure that everyone can fully and equally participate in the digital revolution.

Looking forward, I hope to focus on the unparalleled opportunity that this crisis has brought to steer our efforts toward achieving fundamental fairness and equality in the media industry. Thank you.