

**DISSENTING STATEMENT OF  
COMMISSIONER MIGNON L. CLYBURN**

Re: *Commission Launches Modernization of Media Regulation Initiative*, MB Docket No. 17-105

The purpose of a Public Notice (PN) should be to gather information and build a record before drawing conclusions. Yet it seems in the case of this PN, the FCC's majority starts with a premise that advancing the public interest can only be achieved by clearing the books of rules for the benefit of industry.

To be clear, I have no objection to reviewing the Commission's rules, making a determination if a valid objective remains for a given regulation, and concluding that there is a better, more efficient way to achieve a particular goal for the benefit of stakeholders, consumers, and the Commission. This is in fact what the Commission is required to do as part of its Biennial Review. Section 11 of the Communications Act of 1934 specifically instructs the Commission to "determine whether any such regulation is no longer necessary in the public interest, as the result of meaningful economic competition between providers of such service."

Today's PN turns that similar mandate on its head, by ignoring the basic question of whether the regulations subject to this review remain in the public interest. It assumes that to advance the public interest, we must "reduc[e] unnecessary regulations and undue regulatory burdens." Thus it seems the word "modernization" as this proceeding has been ironically named, is really just code for "deregulation" at the expense of the American consumer.

Let me explain what I mean by sharing a few examples of Commission rules that pertain to the audio and video marketplaces, and why they remain important today. Our Equal Employment Opportunity (EEO) rules require broadcasters and MVPDs of a certain size, to maintain an EEO recruitment program. These rules also prohibit discrimination in hiring. As the Multicultural Media, Telecom and Internet Council (MMTC) recently noted, "EEO compliance is essentially the only public service the Commission requests of radio stations, and one of very few public services required of television stations and MVPDs." Perhaps some stations or MVPDs find the record-keeping and reporting requirements burdensome, but that does not negate the importance of these rules to the public interest.

Similarly, one industry insider recently suggested that as part of this review, the Commission should make broadcast ownership reporting every four years, rather than every two years. Not only is the information contained in these reports vital to enhancing viewpoint diversity, the Third Circuit has explicitly told us we need better data on minority and female ownership. Less frequent data collection would do absolutely nothing, to further these objectives.

Yet another example, is the Commission's rules governing competitive access to cable programming, and the regulation of carriage agreements. As someone who has heard from countless independent programmers about the challenges they face in gaining carriage, we should be strengthening our rules, not eliminating or weakening those protections that are currently on the books.

Now some may claim that I am over-reacting, and the Commission's majority will ultimately conclude that many of these critical rules further the public interest, and should be preserved. But I believe it is important to sound the alarm, and remind my colleagues that our job is to protect the public interest, not give perpetual hall passes to big broadcast and cable companies.

Finally, where the majority concludes that regulations should be eliminated, it is my sincere hope that this will result in the freeing up of agency resources to actually enforce those rules that remain on the books. This could include program access and carriage complaints, compliance with the children's

educational television reporting, and allegations of redlining.

While I disagree with the premise of this PN, and will therefore respectfully dissent, I thank the staff of the Media Bureau for hearing my concerns, as well as for your tireless efforts over the years to promote localism, competition, and viewpoint diversity.