

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

Re: *Promoting Diversification of Ownership in the Broadcasting Services; Amendment of Part 1 of the Commission's Rules, Concerning Practice and Procedure, Amendment of CORES Registration System, Order on Reconsideration*, MB Docket No. 07-294

This Administration has prided itself on improving transparency and ensuring that the actions taken by the Commission are data driven. I support these goals. But by eliminating a noncommercial educational (NCE) broadcasters obligation to provide the Commission with adequate information about its officers or governing board members, today's *Order on Reconsideration* achieves neither. What it will do, is make it harder for us to gather the necessary data on the broadcast media landscape that the Third Circuit and the Government Accountability Office (GAO) have said are so important.

Let me explain. In 2008, the GAO noted that “more accurate, complete, and reliable [broadcast ownership] data would allow FCC to better assess the impact of its rules and regulations and allow the Congress to make more informed legislative decisions.” The report went on to recommend that the “FCC take steps to improve the reliability and accessibility of its data on the gender, race, and ethnicity of broadcast outlet owners.”

This *Order on Reconsideration* sends us in the opposite direction, at a time in which the Third Circuit has repeatedly faulted the FCC for not obtaining the data it needs to improve the state of minority and female broadcast ownership. So why is this data so important? Take for example a fictitious “Pastor John Smith.” A Google search of Pastor John Smith produces 18,600 results. Without a requirement to submit a unique identifier, how does the Commission determine whether the Pastor John Smith who is on the board of a noncommercial station in Charleston, South Carolina, is the same as the one in Fargo, North Dakota? Knowing this information informs the Commission and the public whether we are talking about an individual with involvement in a single station or one that is making programming decisions across a dozen or more stations.

But noncommercial stations are fundamentally different than commercial stations, some might say, because board members have no equity stake and are not actual owners. Yet the GAO's report specifically affirmed that data from NCE stations is needed to have a comprehensive picture of ownership diversity, including representation from women and minorities. This view was reaffirmed in the Commission's 2016 *323 and 323-E Order*, which concluded “that the Commission's analysis with regard to the collection of data from commercial stations is equally applicable in the NCE context. NCE stations hold Commission licenses, as do commercial licensees. Their programming impacts local communities.” Furthermore, despite suggestions to the contrary, many board members of NCE stations are in fact involved in either day-to-day operation of the station and/or programming decisions. To ensure accountability on the public airwaves, the American people have a right to know who these board members are.

The Commission's 2016 Order stated that “Nothing in the statute distinguishes the noncommercial nature of any segment of a service as exempting it from the overall statutory

mandates” which leads me to my final concern. If the statute does not distinguish between the two types of stations, will this not lead to commercial stations asking for the same relief? Once again, the Commission and the American people deserve access to this information, whether it involves a commercial or a noncommercial station using the public airwaves.

For all of the reasons I have stated, I respectfully dissent. Despite my disagreement, I thank the Media Bureau staff for their work on this item.