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Mr. Chairman, Ranking Member Eshoo, Members of the Committee: Thank you for inviting me to be a part of these preliminary discussions concerning possible revision of the Communications Act. Daunting as that process would be, it is important to have conversations broad, deep, and including the full range of viewpoints of people affected by the Act. That would be all of us because we all live in a world transformed by the awesome power of communications. So I urge this Committee, as I have frequently urged the Federal Communications Commission, to visit communities around the country to see and hear first-hand what consumers and citizens actually think about these issues.

We are here today to review whether the Communications Act needs to be updated or otherwise “reformed”. I have heard some say that simply because the Act is old, it must be obsolete—that no matter how well it has served us, an act written 18 years ago cannot possibly have relevance in today’s world. As someone only a little younger than the original Act of 1934, I would raise a caution flag or two. The Declaration of Independence and the Constitution were written long ago too, yet we still find them critically relevant in our lives. While it is praiseworthy to ponder changes to the law, I would suggest, firstly, that the framework of the current statute remains in many ways strong and, secondly, that the current Act’s provisions can still do much to improve our communications landscape, to enlarge economic and social opportunity for all of us, and to nourish the kind of civic dialogue upon which successful self-government inevitably depends.

In an ideal world, most of us would welcome an up-to-the-minute rewrite of the law to reflect how we believe it could be improved. The last such revision, in 1996, was borne of a unique political moment that aligned a sufficient and sundry number of stakeholders across sectors and constituencies who were able to negotiate a compromise statute that, while far from perfect, at least envisioned delivering to every American—no matter who they are, where they live, or the particular circumstances of their individual lives—the most advanced communications technologies and services feasible at reasonable and comparable prices, replete

with consumer protections, rights of privacy, assurances of public safety, and utilizing competition to help achieve these goals. Putting the statute to work to deliver these benefits was my mission at the FCC, working with some of the most amazing public servants anywhere. Nowadays, I carry out my public interest mission in the nonprofit sector at Common Cause.

In the immediate wake of the new law's passage, the Commission indeed made important strides to carry out these Congressional mandates. But, alas, things changed. Some of the very interests who helped negotiate the new Communications Act spent more time undermining the statute than implementing it. Such efforts continue to this day as we saw in yesterday's court decision that seriously jeopardizes the future of the Open Internet. I appeared in front of this panel many times to voice my dissent on Commission decisions involving the reclassification of communications services, industry consolidation across both our telecom and media sectors, the elimination of policies that had long safeguarded the public interest, and the heavy toll it exacted on consumer choices, consumer prices, and slowing the deployment of competitive, low-cost, high-speed broadband—this century's most important infrastructure.

We can, I know, debate this for hours, but the record of these hearings needs to show that many people do not share the easy optimism that others express about the state of America's communications readiness. As you consider legislation in the coming months, some will tell you that America is a veritable broadband wonderland, a triumph of free market entrepreneurship that puts us at the forefront of high-tech nations. But there are stubborn facts we must never avoid. The United States, originator so much of the technology behind the Internet, has fallen from leader to laggard in broadband penetration. According to the OECD, our country is 16th in wired broadband connections per 100 residents. Worse, comparative research shows that Americans are paying more and getting less than wired broadband consumers in competitor countries. The Department of Justice has noted that the local wireless marketplace offers consumers little in the way of choice, even as mobile data plans are saddled with data caps that harm consumption and innovation alike. And once again, for the third time, the FCC found itself unable to certify that we enjoy a competitive wireless marketplace. Surely the time is now for proactive and pro-consumer measures to make quality broadband universally affordable once and for all.

While we are not gathered here this morning to rehash those decisions, I do think it is important to understand that many of the faults attributed to the current statute are more the result of powerful industry efforts to undermine it and of Commission decisions that too often

aid and abet that effort. So while we open discussions on revising communications law, let us recognize that our present statute has been interpreted and implemented in ways not originally intended and that many of its constituent parts are still relevant, workable, and consumer-friendly. There is a statute to enforce, and putting that job on hold while we consider changing it is not a good option. Additionally, I think most of us here this morning understand that finding a new correlation of interests that can come together to forge the Communications Act of 2015 or 2020 will be even more challenging than the jockeying that gave birth to the current law. As the world races ahead, we have a duty to make the best possible use of the laws we have in order to achieve the ongoing goals Congress laid out. These remain powerful instruments. A statute that invokes “the public interest” over 100 times; that highlights universality of service, competition, and consumer protection; and that underlines the necessity for media that informs communities and engages citizens cannot be all bad.

Would I have some preferences for a reworked statute? Of course, although a good part of it is making sure the Commission and the industry follow through on what is already on the books to foster competition and consumer protection; to deliver on public safety; to preserve privacy in this age of massive intrusions; to avoid never-ending industry consolidation; to put the brakes on gate-keeping in our media, both traditional and new; and to provide the FCC with the resources it needs to discharge its responsibilities.

My greatest disappointment at the Commission is that we didn’t do enough to encourage media that truly reflects the diversity of our people. Can you believe that today there is no African American-owned full-power commercial television station anywhere in the land? America *is* diversity, and if our media fails to represent diversity of providers and content and viewpoint and ownership, it fails us all. The sad plight of communications across our Native lands needs to be addressed with renewed urgency and additional resources. Imagine that there are still areas where a majority of the First Americans cannot access even plain old telephone service, let alone the kind of high-speed Internet that is the most powerful tool they can have to create opportunity where there is so little opportunity now.

I would hope we could find ways to stimulate basic communications research via private-public partnerships—I’m not talking about the next glitzy app, but the basic, fundamental research that will determine who wins and who loses in the global sweepstakes.

I'm for making the Commission more efficient—like doing away with the “closed meeting” rule that prevents more than two Commissioners from even talking to one another. This reform needs to go forward now, whether or not more far-reaching revisions can be enacted. And I believe that when three Commissioners have something they want to do, that item should go on the agenda. My list could go on, and I welcome the opportunity to discuss such things today.

But I always come back to democracy, because this is what concerns me most. Our country is in trouble, reminiscent in many ways of the severity of the economic, global and social crises it faced in the 1930s, and there are no guaranteed happy outcomes. I just do not see how citizens can be expected to navigate through all these issues and come out with smart decisions for our nation's future when the telecommunications tools we need are not available to all and in a media environment where community outlets have been short-circuited, investigative journalism hangs by a life thread, and wherein we expect some invisible hand to produce those things that the market itself no longer produces and which, over the course of our history, the market alone has never produced. Communications are vital to our economy. But they are the life-blood of our democracy, too. They must be available to all, open to all, never the exclusive province of the affluent or the few, always alive to the common good. We should not see our communications world as part telecom, part media or part traditional media and part “new” media. We have one communications ecosystem and our job is to make it work for everyone. I know of no greater challenge that confronts the Congress, the Commission, or the country.

Thank you for holding this hearing today and for inviting me to be a part of it. I look forward to our discussion.