

Congress of the United States
Washington, DC 20515

July 12, 2016

Hon. Thomas E. Wheeler
Chairman
Federal Communications Commission
445 12th St. S.W.
Washington, D.C. 20554

Dear Chairman Wheeler:

We have been following with interest your response to the Third Circuit's decision in *Prometheus Media Project v. FCC*, Case No. 15-3863 (3d Cir., slip op., May 25, 2016) ("Prometheus III"). The Court accepted the FCC's promise to circulate an item that would rule on, *inter alia*, a package of long-pending proposals to advance minority media ownership. On June 27, you circulated such an item and issued a fact sheet that described, with specificity, your proposed actions on all of the issues in the item except the minority ownership proposals.

The centerpiece of the minority ownership package is a proposal by the Multicultural Media, Telecom and Internet Council (MMTC) - endorsed unanimously by the FCC's (former) Advisory Committee on Diversity for Communications in the Digital Age - to extend the 1992 Cable Act's MVPD Procurement Rule to all entities regulated by the FCC.

The MVPD Procurement Rule is a good foundation and more must be done. The rule has generated no litigation and has been embraced by industry and civil rights stakeholders alike. Under the Rule, cable and satellite operators annually provide the Commission with details on the steps they take to provide equal procurement opportunities to minority and women suppliers. The Rule has been instrumental in building a competitive procurement environment in which diverse firms provide cable and satellite companies with construction and deployment services, programming, legal and accounting services, call center operations and much more. While more needs to be done, these foundational rules need to be applied to other communications and tech companies.

More specifically, the time has come to extend the MVPD Procurement Rule to all FCC regulated entities. All media and telecom industries are rapidly converging: they certainly share the same procurement ecosystems. Consequently the FCC has quite properly emphasized "platform neutrality" in regulating them. Extending the MVPD Procurement Rule across all platforms would recognize industry convergence, affirm platform neutrality, and affirm the FCC's deep commitment to advance equal opportunity in the digital age.

While the FCC clearly is empowered to regulate the procurement practices of its Title II, Title III and Title VI regulatees, it cannot directly regulate Title I information services. However, in its role as a purchaser of a large volume of goods and services, the federal government has the ability to leverage superior procurement programs among its vendors. Most Title I information services are very large government contractors, and these firms tend to have among the least effective procurement programs. Initially, you should ask these firms to voluntarily provide the Commission with procurement program information comparable to the information that regulatees provide pursuant to the MVPD Procurement Rule. If this request is met with resistance, you should ask the General Accounting Office to gather and report on these programs so that each federal agency can determine how to ensure that in its purchasing of goods and services, it is not using taxpayers' dollars to underwrite minority exclusion from suppliers' procurement pipelines.

Extension of the highly successful MVPD procurement rule to all regulatees - and a request for voluntary compliance by Title I information services backed up by a referral to the GAO - would open the doors so that billions of procurement dollars can flow to minority and women owned companies in the next decade. It would be the single most powerful step the Wheeler Commission could take to establish its civil rights legacy for years to come.

Please advise us of your plans to address this issue.

Sincerely,



Yvette D. Clarke
Member of Congress



Bobby Rush
Member of Congress



G.K. Butterfield
Member of Congress