



The Historical Moment of Net Neutrality: An Interview With Former U.S. Federal Communications Commissioner Michael J. Copps

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Former Federal Communications Commissioner Michael J. Copps (sworn in May 31, 2001; served until December 31, 2011) reflects on how his time on the commission helped pave the way for the 2015 net neutrality decision. He offers his historical perspective on the role of the public in media policymaking and upcoming issues for citizens and activists.

Keywords: media policy, Internet policy, network neutrality, citizen activism, policy history, Federal Communications Commission, media reform

Introduction by the Guest Editors Becky Lentz and Allison Perlman

One of our goals in producing this special section was to contextualize the net neutrality decision in a range of ways that foreground the work required to intervene on behalf of the public interest. To give us an insider's view, we asked media historian and policy scholar Bill Kirkpatrick to interview former Federal Communications Commissioner Michael J. Copps: How does someone who was recently on the commission, and who intimately understands how it works, think about the possibilities and potentialities for intervening on behalf of the public interest? Copps was an obvious choice both because of his strenuous efforts, while at the FCC, to solicit public opinion and involve citizens in the policymaking process and because of his long historical perspective on American politics. Kirkpatrick (2012, 2013), for his part, has frequently wrestled in his scholarship with the tensions between official policy cultures and democratic processes, and he brought his own interests in policy history to the conversation. Copps and Kirkpatrick spoke on May 11, 2015 at the Washington, D.C. office of Common Cause, a media-reform advocacy organization for which Copps is currently a special adviser on media policy issues.

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Introduction by Bill Kirkpatrick

This special section of the *International Journal of Communication* seeks to uncover the multiple layers of labor that led to the Federal Communications Commission's (FCC) 2015 network neutrality decision: By looking to both the past and the future, what can we learn from this policy outcome? As the interview below demonstrates, any thorough understanding of the 2015 open Internet rules must go back at least to 2001 and the work of former Commissioner Michael J. Copps, easily the official most responsible for securing a place for the public's voice in modern U.S. media policymaking. As we seek to understand which strategies led the FCC into reclassification, Copps' actions on the commission more than a decade earlier appear increasingly pivotal and help advance our understanding of the roles that citizen activism can play in future policy battles.

The power of the public to pressure the FCC into pursuing particular policies has long been limited. With few exceptions, mostly around indecency and programming for children, policymakers have consistently found it depressingly easy to ignore public opinion on media issues. Although nominally regulating the media in the public interest, the FCC, even when it was still the Federal Radio Commission, has largely sought to confine citizens to relatively ineffectual roles as commenters and complainers, as the beneficiaries rather than the co-creators of policy (see, e.g., Cole & Oettinger, 1978; Horwitz, 2001). As early as 1929, it was clear to observers that the Federal Radio Commission would usually disregard listener letters on behalf of particular stations or policies; as one consulting firm put it, "In the opinion of the Commission this is in most cases resulting only in an encumbrance of the record without any particular significance" (Stevenson Radio Syndicate, 1929, p. 12). Nine decades later, Gangadharan (2013b) observed, "The bulk of citizen input seldom filters its way up to higher ranking individuals. . . . [Public comments have] mattered as evidence of participation having happened, as a numerical count, and little more" (p. 557). Copps himself asserted in 2008, "We're leaving out perhaps the most critical element that you should be making sure is included . . . the public" (quoted in Brown & Blevins, 2008, p. 458).

Legal routes for public participation have been similarly obstacle-strewn. Before 1966, citizens did not even have standing to challenge FCC decisions in court, and recent decades have seen ever more of the legal supports for public intervention crumble. For instance, in 2014, the FCC (2014) formally repealed the Zapple Doctrine (the last vestige of the Fairness Doctrine, which sought to force broadcasters to allow multisided political debate), thereby eliminating an important tool by which the public could demand political even-handedness from local broadcast licensees. Such moves have left the public with often just one realistic option: protests. But even strong, broad, and well-organized public protests tend to meet with limited success, especially on issues of access, ownership, local licensing, and representation (see, e.g., Allen, 2013; Lucas, 2006; McChesney, 2000; Stamm, 2005). Furthermore, with rare exceptions such as the struggle for low-power FM, organized protests also tend to be defensive in nature, seeking to prevent further erosion of the status quo rather than acting affirmatively to carve out new public interest media policies.

Given this track record, one may be forgiven for despairing at the public's ability to affect media policy decisions in a consistently meaningful way, especially when it comes to organizing for progressive media reform in the face of the now-decades-long dominance of deregulatory neoliberalism in American

political culture. Nonetheless, an increasingly robust scholarly literature on the question of public participation suggests that too much defeatism or cynicism is misplaced.¹ Clearly, even vigorous and widespread public activism is rarely sufficient to bring about policy change on questions of national significance; however, such public participation is frequently necessary and often decisive in tipping the scales. That might sound like weak tea, but as the 2015 net neutrality rules demonstrate, in the Internet era, such findings offer important hope for future struggles.

Certainly Michael J. Copps thinks so, although even he acknowledges that the jury was out for a long time: "The evidence that [citizen activism] can be effective came this year, really." Copps was among the first media policymakers in the Internet era to both recognize and capitalize on new possibilities for the widespread organization and expression of public opinion. Beginning in 2002, as the Republican-led FCC sought to radically alter ownership rules in favor of major media corporations, Copps and his colleague Jonathan Adelstein began holding public hearings on the issue. These hearings, and Copps' role in bringing the public into the policymaking process, were not entirely unprecedented, of course. For example, FCC Chair Paul Porter held hearings in the 1940s in an effort to involve the public (Pickard, 2011), and Commissioner Nicholas Johnson in the 1960s and '70s was an especially effective publicist for media reform, using venues from books to talk shows to *Rolling Stone* magazine to try to get the public interested, educated, and involved in media policy battles (Brown & Blevins, 2008; Lentz & Kirkpatrick, 2014). Nonetheless, the scope of Copps and Adelstein's efforts were impressive: Between February 2003 and December 2011, they held at least 54 formal hearings on media ownership ("There are probably more that dropped through the hole," according to Copps), and another 12 on the transition to digital television. This number does not count all the community meetings and other forums they attended. Despite a meager travel budget and a full plate of work back in Washington, Copps and Adelstein crossed the country and listened to tens of thousands of citizens on the effect of media policies in their communities ("We spent a lot of time on the road, Jonathan and I"). Importantly, unlike in Porter's and Johnson's day, Copps' low-tech, grassroots techniques could be amplified and multiplied by new media technologies that were just becoming more widely available: the Independent Media Center movement, blogging, nascent forms of social media, and more.²

This work has had several important and lasting outcomes. The hearings helped citizens across the ideological spectrum understand themselves as a *public*, in John Dewey's (1954) sense, rather than as atomized individuals or splintered interest groups. They demonstrated that the public's voices were being heard by those in power; indeed, Copps says that he learned something new at every single event. They formed a visible rebuke to the FCC's usually insider-ish way of working (and the Republican

¹ Social scientists have long studied political participation, but I wish to situate this interview within a growing body of critical-cultural work, emerging from both the humanities and the social sciences, on political participation in media policy debates. Some key examples include Amaya and Perlman (2013), Dunbar-Hester (2014), Fones-Wolf (2006), Gangadharan (2013a), Kirkpatrick (2012), Lentz (2014), Löblich (2015), Perlman (2012), Pickard (2014), and Streeter (1996).

² For more on the importance of these communications technologies to the struggle against media consolidation in the early 2000s, see Stengrim (2005). For an intriguing discursive analysis of subsequent online citizen activism, see Powell (2016).

commissioners' own primary audience of large corporations and free-market ideologues). They even forced "mainstream" media to take notice and begin covering media issues. Perhaps most importantly and lastingly, however, the hearings helped carve out a space for, and an increased accountability to, public opinion on media issues that has proven instrumental in multiple struggles since, including the Protect IP Act (PIPA), the Stop Online Piracy Act (SOPA), and the defeat of the Comcast–Time Warner merger. Net neutrality is an especially crucial addition to this list, showing that affirmative change is also possible (Copps: "From the standpoint of really doing something positive, not just stopping bad things but making good things happen, February 26, 2015, was a banner day").

In the interview that follows, Copps reflects on the net neutrality victory, situating it within a longer historical context, the culture of Washington, and the importance of media to democracy. No Nick-Johnson-style "maverick," Copps speaks to the ways in which his politics and long career in Washington have reinforced his faith in civic engagement, making the case for the significance of public participation in media policy—a particularly encouraging message coming from a Washington insider who, more than most activists and analysts, understands bureaucratic processes and mindsets and how to influence them.

His perspective is especially valuable because Copps is aware of and steeped in the rhythms of American history; indeed, he earned a PhD in history at the University of North Carolina and taught at Loyola University New Orleans before moving to Washington. He still thinks like a historian and tends to analyze politics in historical terms despite more than 40 years in government. (Notably, FCC Chair Tom Wheeler also loves history—he wrote a book on Lincoln's use of the telegraph during the Civil War (Wheeler, 2008)—and Copps discusses below how he appealed to Wheeler's historical sensibility when persuading him to support reclassification.)

Part career retrospective, part history lesson, and part policy analysis, Copps reflects on the role of public opinion in 21st-century policymaking and draws conclusions from the net neutrality debate for future activism.

The Interview With Michael J. Copps

Kirkpatrick:

What was your impetus for coming to Washington?

Copps:

Ever since I was a little kid I was inordinately interested in politics. I used to write letters to senators, get their signatures, and follow their issues. I probably should have been doing more normal things, but I just always had this fascination for Washington. And I knew that at some time in my career I would like to come here.

Originally, I was going to be a lawyer, but I ran across a history professor as an undergraduate at Wofford College who converted me to the cause of history, so I got a PhD at the University of North Carolina in American history. My first job out of there was teaching at Loyola University in New Orleans.

The phone rang one day and it was Senator Fritz Hollings from South Carolina. [Ernest "Fritz" Hollings was a centrist Democrat who served as governor of South Carolina (1959–1963) before serving in the Senate from 1966 to 2005.] He was looking for a researcher/writer, and one of my classmates from Wofford had told Fritz, "Hey, I know this dude down in New Orleans—maybe you want to talk to him." This was February of 1970. I could make out about half of what he was saying with that thick Charleston accent of his, but I understood the part about "Would you like to be interviewed for a job?" We hit it off right away, so I went back and told my bride-to-be, "Don't worry, it's just two or three years. I just have to get this out of my system, then we'll go back to the groves of academia and live happily ever after." We moved up here and we're still here.

Kirkpatrick:

What was your understanding of Washington policymaking culture before you came here, and how different was it when you actually got here?

Copps:

It was a big wake-up call. This was 1970, '71, '72. You had the Vietnam War, all the civil rights stuff going on; you were right on the cusp of Watergate. I would go into the office in the morning and Senator Hollings would say, "What'd you think of that speech Nixon gave last night?" And I would give him my horrendously skewed academic rendition of what Nixon was saying based on my profound knowledge of history. He'd say, "Well, that's all very nice but let me tell you what the guy was really saying," then proceed to give me a more realistic interpretation based on the world of politics—he just had an intuitive genius for that.

It was not an easy time, so I'm not being nostalgic about the good old days, because cities were burning, people were being assassinated, and wars were going on. There was corruption in government. But the Senate was a very vital body. You had some really good people there on both sides of the aisle. You had conservative Democrats and liberal Republicans and moderates of both parties. Hollings was part of a group of eight or 10 senators, Republicans and Democrats, and every Wednesday night they'd go to one another's houses and have dinner and a few drinks and talk about the issues. There was a lot more willingness to compromise, and a whole lot less ideology.

Kirkpatrick:

How did you get appointed to the FCC?

Copps:

There were some stops in between. I was going to stay with Senator Hollings three or four years. I stayed with him for 15. I liked working for him. I love him. He's still going at 93 in Charleston, South Carolina.

I was out in the private sector from '85 to '91, six or seven years. Then Bill Clinton got elected and put Ron Brown in the Commerce Department. [Ronald H. Brown served as Secretary of Commerce from 1993 until his death in a plane crash in 1996.] I figured this was the time for that department to shine. So, I was deputy assistant secretary there for a while and then I became Assistant Secretary for Trade Development until the end of the administration.

Then in 2001, my friend Fritz apprised me of the fact that there was an opening at the FCC. So we went down and talked to Senator [Tom] Daschle, who was the leader at the time, to get a Democratic sign-off. The way it worked was, even if there was a Republican president, if there was a Democratic seat on an independent commission, the Republican president would let the Senate Democrats propose potential nominees. President Clinton had used the same procedure with Republican Bob Dole: "You can name the Republicans you want on the agency and I probably will pick from them."

To make a long story short, I got that position and took office toward the end of May in 2001. I've had a lot of interesting jobs in Washington, but that was one of the best jobs in government, being a Federal Communications Commissioner, because you're exposed to all these edge-of-the-envelope issues at a time when technology is just exploding and the Internet and broadband coming center-stage in our lives. You're right in the middle of it as a commissioner, making decisions in all these worlds. So you meet innovators, business people, stakeholders of every type, and, of course, the public-at-large—everybody who's involved in these issues.

The best thing about it is the independence that comes with the job and that's the first time I'd ever had it. There aren't too many jobs like that in government where you don't report really to anybody but yourself. You can say the wrong thing and get yourself in trouble, but it's different when you're speaking for yourself rather than for the Secretary of Commerce and you say something wrong. That's really valuable, that independence. It just makes it a unique job, a powerful job, and really an enjoyable job.

The Fight Over Media Consolidation

Kirkpatrick:

You came to public consciousness primarily through the fight over media consolidation when you held public hearings on the issue. How did that come about?

Copps:

There were precedents. There was earlier a progressive FCC, once upon a time, but you have to go back a long time: James Fly and Paul Porter and Clifford Durr and people like that. That lasted into the first part of the Truman administration and then that was kind of that.³

³ James L. Fly chaired the FCC from 1939 to 1944 and established a record as a progressive activist, taking on RCA over technical standards and shepherding the 1941 *Report on Chain Broadcasting*, which sought to curb corporate power in the media system. Paul A. Porter succeeded Fly as chair and, together with (most significantly) Commissioner Clifford J. Durr, produced the *Public Service Responsibility of Broadcast Licensees* (the so-called "Blue Book") in 1946, which sought to make explicit the public interest obligations of broadcasters. Porter died in 1946 and Durr left the Commission in 1948. By the 1950s, the FCC had entered its "warehouse era" of exceptionally business-friendly policy. In the decades since, isolated voices such as Newton Minow, an early champion of public television, and Nicholas Johnson, an important advocate for media reform, stand out as rare exceptions resisting overwhelmingly neoliberal policymaking trends.

I think the first time [then-FCC Chairman] Michael Powell asked me to do anything, it was to approve a media consolidation deal. I think it was a Fox and Chris-Craft merger, and he really wanted to have my vote for that. [Fox acquired the manufacturing conglomerate Chris-Craft in 2000, primarily for its television holdings.] I didn't go along with that, but I realized right then this was going to be a big issue going forward. As a historian, I had some knowledge of and interest in and worry about how our democracy was doing. Were we making intelligent decisions? Was journalism surviving? Did we have good investigative journalism? Were things getting better? Were things getting worse? Were media truly serving the people?

Then, we had the big change in Chairman Powell's media ownership rules in 2003 [allowing greater consolidation and cross-ownership of broadcast stations and newspapers], and I could see that unless something was done, this was going to be an inside-the-Beltway, business-as-usual operation. The Big Media guys would come by and present their beautifully wrapped-and-bound petitions and pleadings to the commission, and we wouldn't hear from too many other people, people who were going to be affected by the loss of a local station or the closing of a newsroom and the firing of journalists and all. So Commissioner Jonathan Adelstein and I decided we were going to go out and talk to those people.

Free Press was just starting up and there were other active groups like the Media Access Project, Consumer's Union, the Consumer Federation of America, and others. They were hard at work putting together public interest opposition to the proposed Powell rules. And there were conservative groups, too, and we worked with them. I'd been involved to a pretty heavy extent in the indecency issues with some of the religious groups, and then I found out that the National Rifle Association was not too hot about media consolidation at that particular time either, because they were afraid their ads were going to be bumped off by the air by big consolidated media. So, we had all of these disparate groups from the Rainbow Coalition and NOW to the Parents Television Council to many churches.

I remember a meeting we had before the vote in 2003 in the big meeting room at the FCC. There were probably 40 or 50 groups in there that spanned the political spectrum. That's when Washington began to take notice. The press started paying a little attention, although the media ownership issue was never adequately covered by the media because it was their ox that was going to be gored if I and the public interest groups got our way. But the groups came together and we pushed Michael for hearings. He agreed to do one or two, but these were all kind of canned—well, I wouldn't say canned, but you could tell where these hearings were going. Then, Jonathan and I decided to use some of our own rather meager travel budgets to finance some hearings on our own, and we'd also get invitations from community groups and public interest groups: "Come on out and do a town hall meeting." We finally learned the fine art of holding those—for example, you don't hold a hearing in the middle of the morning when workers can't come; you hold it in the evening when they can fill the hall and have their say.

Our network did a pretty good job of getting news out to the communities we went into. Where there was independent and local media, they would publish it. Where there was just big media, conglomerated media, they wouldn't say a thing usually. Maybe there'd be a short mention that we were coming to town or had been in town, but there was no real coverage. But the grassroots networks worked. It wasn't long before 300, 400, 500 people would turn out and the meetings would last five, six, seven—one of them

went to I think nine hours. One or two Republican commissioners would come occasionally, but usually they wouldn't stay until the bitter end. But Jonathan and I offered the public an open mic and we said, "We're not leaving here until the last person has had an opportunity to speak." So that's what we did.

Kirkpatrick:

Clearly at some point, by meeting number 10 or 20 or whenever, you've heard all the possible points . . .

Copps:

No, no. I never went to a media ownership hearing where I didn't learn something new, and that is still true today. You go in and some professor from a college, or a local independent journalist, or just an everyday citizen speaking from first-hand experience will get up and say they're doing this research, or they can't hear a diversity of issues on-air, or the local news is a shadow of what it should be, or did you know this about our community? And no, I didn't. Do you hear some of the same things over and over again? Sure you do. But that's true of big businesses too—they tell me the same things too over and over all the time. So I learned a lot from these local hearings, a lot more than you could ever learn just sitting back in Washington and listening to the usual suspects.

I think the evidence that it can be effective came this year, really. Not for the first time, of course: When I was at the commission, we managed to get a lot of people writing in and we actually saw Congress, in response to grassroots pressure, turn back the Michael Powell rules and then the Kevin Martin rules in 2007.⁴ The courts were a big help too, but Congress, you will recall, overrode them. But from the standpoint of really doing something positive, not just stopping bad things but making good things happen, February 26, 2015, was a banner day. You had four million people write in to convince the FCC, convince the President of the United States, convince so many people that the open Internet is in the public interest and is necessary for democracy. Then, with the fate of the Comcast–Time Warner proposed merger and also the preempting of two state laws on municipal community broadband, those were three huge victories. And the grassroots had a lot to do with all of them.

It's wonderful, because we live in an age where special interests and big money control way too much of our political process and our national life. I think you have to go back to the notorious Gilded Age of the late 1870s, the 1880s, and 1890s to find an era when big money wielded so much influence. I think it's just as powerful, if not more so, right now. But here we had an example proving that when the grassroots gets interested and gets mobilized, if it really sticks at it and really makes its voice heard, it can still overcome the power of those entrenched interests. That is a vindication of democracy and citizen action such as we haven't seen in a long, long time, not just in communications but in lots of other areas, too.

Kirkpatrick:

That sense of the public being empowered seems to be one of the lasting legacies of your strategies on the commission.

⁴ Kevin J. Martin succeeded Powell as FCC chair in 2005 and continued Powell's deregulatory agenda.

Copps:

I think people are beginning to understand the importance that the communications sector plays in their national life. I don't think that was true back when we did the original media ownership battles in 2003 and even in 2007. At that time, a lot of people thought, "Well, this newfangled broadband Internet is coming along, and this old-timer Copps is talking about radio and television and cable, technologies that are probably going to be consigned to the ashcan of history." But now, so the story went, "We have this new super-dynamic tool that's not going to be subject to the usual laws in the marketplace. It will be controlled by users at the edge. *I've got the power. And it's never going to be consolidated. It's not going to happen.*"

Fast-forward to 2014, and the Verizon court strikes down the open Internet rules. Then a month later, Comcast says it is going to buy up Time Warner cable. And now you have a whole generation on the Internet, and the media was a little more willing to cover this story, so a lot of people said, "Wait a minute. Maybe this does concern me after all. I don't want anybody messing with my communications. This is how I get my news and information, how I find and keep a job, how I educate myself and my kids, how I do my social thing. I don't want these big companies mucking around with that. I don't want gatekeepers."

I think the two issues coming so close together, the Verizon court decision and the Comcast–Time Warner merger, just kind of brought it all home for the American people. It's about gate-keeping and too much power in the hands of too few. And I think that's a large part of the reason the public was willing to express itself, because they have that kind of understanding of the issues. And I think when you get the president cutting a video on something like the open Internet, it connotes a certain importance to an issue, and people see that. "This must be kind of important if the President of the United States is speaking out about it."

So, all those things kind of came together, happy circumstances, and then Tom Wheeler, bless him, saw the light.

Tom Wheeler and Reclassification**Kirkpatrick:**

I'm one of those people who owe Tom Wheeler an apology. I had accused him of being too close to the industry, unlikely to buck corporate power, another example of the problem of the revolving door. [Prior to his appointment to the FCC, Wheeler had worked for two industry trade associations, both of which opposed reclassification.]

Copps:

I don't think you owe him an apology. That was the history. That's what you would have expected. Now, I had had my hopes. I'd known Tom, and I knew he was an uncommonly bright guy and something of a historian himself as an avocation. My message to him was, "This commission is going to go down in history based on what it does on the open Internet rule. That will be the legacy of the Wheeler commission. Might be good, might be bad—that's up to you. But that's what it's going to be."

Kirkpatrick:

So what do you think brought him around?

Copps:

I think a combination of circumstances. He had a more open mind than people thought. I think originally he thought he could use other chapters of the law and avoid Title II and still protect the Internet. Even after the president's statement, best as I can judge, he was still not 100% there and was still looking at other options. But I think a lot of people on his staff, as well as from the outside, were telling him that's really not going to work. [Previous FCC Chairman] Julius Genachowski had tried a third way and it didn't work, and it's just going to be an endless road if we go down that route again (Genachowski, 2010). The only hope you have for getting the courts to approve this is to call the broadband Internet what it is, telecommunications, and put the strongest legal foundation under it that you possibly can. Wheeler's a practical man, and I think he finally became convinced that was the likeliest route, indeed the only plausible route, to an open Internet rule being upheld by the courts.

But credit also to our own: the grassroots, the public interest groups, and all those people. Imagine something so arcane-sounding as "net neutrality" stirring so much passion. I always recoiled from the term *network neutrality* because it's such a milquetoast moniker. When you stop and think about it, this grassroots movement of four million people—boy, it must have been something really jazzy they were writing in about. Well, it wasn't. But people understood it anyhow. Even down to the subtext, "Title II." That's really pretty amazing.

Now we'll hope for the best going ahead, but I think Chairman Wheeler has done what he should have to advance an enduring open Internet.

Future Policy Battles**Kirkpatrick:**

Net neutrality, municipal broadband, elimination of the Comcast merger—we seem to be on a roll here. What's coming at us in the future?

Copps:

Well, first we have to preserve, protect, and defend what we won. It's easy to say, "Well, we won that one, that showed them." But we've got a long ways to go to ensure a truly open Internet, and there's so much money and influence in the big companies lobbying against net neutrality up on Capitol Hill. Same with media ownership: The day after the Comcast deal went south, all the gurus on Wall Street were saying it's only going to set off a new wave of media mergers—smaller maybe, but lots of them. And that's already happening.

But I've got two other things right now on my bucket list. One is political advertising disclosure. That's Section 317 of the Telecommunications Act. Since it was enacted, the Telecommunications Act has had sponsorship identification rules, which require that when the broadcasters get compensation for something, they have to disclose that. That rule applies not just to commercial advertising but also to

political advertisers. It's never really been enforced on the political side, even though it's been on the books all these years. So, my goal now is to try to persuade the FCC to implement Section 317 in time for the 2016 election. When you turn on your TV at night and see this anonymous attack ad brought to you by Citizens for Purple Mountains Majesty and Amber Waves of Grain, Section 317 enforcement would require it to identify who is really, actually sponsoring that ad.

This is not partisan—I don't care if it's a very conservative or a very liberal group, or who it is. The FCC said, the last time they even visited these rules in the '60s, that the American people have a right to know who is trying to persuade them or influence their vote.

We're going to go down the same kind of grassroots road that we did on media and the open Internet because I think this issue has legs. I think if people knew that the Purple Mountains Majesty ad was really sponsored by a chemical company dumping sludge into their local river, there'd be fewer of those ads before very long. While it doesn't solve the money problem, I think that it would show people that, wow, we really can do something on ad transparency and campaign reform, without Congress having to pass a law, which Congress is incapable of doing right now. All the commission has to do is say, "We're going to start enforcing Section 317."

There would be a Notice of Proposed Rulemaking, because these rules haven't been updated since we've had the evolution of dark money and PACs and Super PACs and all these other channels for money to diminish our democracy. But the commission can do this and determine what kind of formula should be used. Maybe the top-five sponsors or the three top groups on a percentage basis? But the first step is the commission waking up to its responsibility to enforce the law. We need to get the principle established first of all. It's not an easy subject for Chairman Wheeler to tackle, but I don't think any more difficult than the open Internet, or media consolidation, or some of these other things. That's my first issue.

The second is, I want to see if I can get a national conversation going on looking at access to high-speed, high-value, low-cost, affordable broadband for every American as a civil right. I don't think you can be a fully functioning citizen in this country unless you have that kind of access to our communications infrastructure, for purposes of finding a job, doing your job, keeping your job, educating yourself, educating your kids, taking care of your health, all the other things we do on the Internet. Without that you are relegated to second-class citizenship and the country, I think, is also relegated to second-class rankings in competitiveness and social well-being.

Kirkpatrick:

You were on the commission when the National Broadband Plan was formed.⁵ Where does that stand now?

Copps:

It's still out there. For eight years, I had listened to all this nonsense from the Bush administration and the Republican commissions that the way we built America is simply free enterprise: "Don't mess up the

⁵ *Connecting America: The National Broadband Plan* (FCC, 2010) was unveiled in 2010 and seeks to improve the state of broadband services in the United States.

innovation and the dynamism of the Internet with any public interest oversight. The big companies will get broadband out to everybody eventually, even in those places where there is no business reason why they should. It will all get taken care of, don't worry." So our broadband rankings slipped dramatically.

Finally, in 2008, we had an election. We finally had a majority of the commission who understood that's not how America was built at all, that America was built with public sector-private sector partnerships. You could go all the way back to the days of canals and river and harbor improvements and bridges and toll roads and then regional railroads and transcontinental railroads and then the interstate highway system in the late 1950s, rural electrification before that, even plain old telephone service. All were built in experimental ways, the private sector leading the way but local jurisdictions would have a role, states would have a role, and government would provide a sense of priority and mission. We debated this issue throughout our history and not 100% of the people always agreed, but we usually managed to get the job of infrastructure-building done. We still need that sense of mission to get this job done, like when Eisenhower and the Congress set us on course for interstate highways.

To do broadband on that scale, we would have needed something like 200 billion dollars in 2009. We didn't get anything like that. I think it was a lost opportunity really, to invest in the necessary infrastructure of the 21st century. The infrastructure of the 21st century is broadband, and we just have to invest in it. I think the president understands that, but it's a question of whether he is willing to really make it a national priority and carry it through to victory.

Lessons From History

Kirkpatrick:

What do you wish that policy scholars and the public understood better about how policy actually gets made?

Copps:

I think they really need to understand two things. Number one is the power of the special interests, the influence that they wield. Citizens can't just sit back and watch, which leads to number two, which is it ain't going to change without the American people insisting that it change. We have gotten ourselves into a position in this country now where we don't have any institutional trust left. That trust has to be rebuilt with leadership befitting the challenge of the times. You can go back to the Depression: Franklin Roosevelt comes in and people are willing to try something new. They are willing to give government an opportunity to see if they can fix things. But now government has fallen into such disrepute—some of it from its own shortfalls, to be sure, but more of it from the big money and ideological attacks of vested interests—that it's a very steep hill to climb. So a lot of people just kind of withdraw into themselves. They're in their own little sphere saying, "Don't mess with my freedom and don't mess with my abilities. Don't mess with my life at all."

We can't build the country's future that way. We can't really make it the prosperous country it should be again unless we realize that we're all in this together. The forces that are aligned against progress are not going to be outdone unless there's really an uprising from the grassroots. And that's what encouraged me

about the open Internet and some of the other stirrings out there. Hopefully, the message will get through that we can do this, that we must do this, and we have to find and then trust visionary leadership to meet the serious challenges this country confronts. After all, we did it on PIPA, we did it on SOPA, we did it on the open Internet, and things like that. But there are so many other issues where the voice of the people can and must make the difference.

I tell everybody former FCC Commissioner Nick Johnson's (2008) old phrasing about how the media should be everyone's second issue. You know, you might have 10 people at a table, and if you ask what's the most important problem facing America, they'll give you 10 different answers. But then you say, "Well, that's nice, but none of those issues is going anywhere until you have a media that tees them up for the American people and presents them so we can have a vibrant and uninhibited marketplace of ideas, where an informed civic dialogue can steer us toward decisions that advance the public interest. That's what the Supreme Court has said the First Amendment is all about in its historic *Red Lion* case."⁶

I think there are ebbs and flows in history. Arthur Schlesinger, Jr. (1986), the famous historian, and his father (Schlesinger, 2008) used to talk about cycles of reform and cycles of reaction over the course of our history. I think we're long overdue for a cycle of reform. But I think it has been held back by the lack of a vibrant civic dialogue, the lack of investigative journalism, the lack of local news because of consolidation, and because of all that gate-keeping. But I'm still at it. I'm still enthused about it, which means I'm still hopeful. I see some hopeful signs.

Speaking of Schlesinger, shortly after I got to the FCC and the battle started with Michael Powell about media ownership, *The New York Times* did a little spot on me and they had a picture that was taken in my office. I was sitting there, and above me was a political poster of my hero FDR that was very conspicuous. About 10 days later, I got this handwritten note from Arthur Schlesinger, Jr. He said something like, "Dear Commissioner Copps, I am fascinated and encouraged to know that there's a historian at the FCC." He said, "As George Soros says, this period of market fundamentalism, this too will pass, and in the meantime, please know that there are plenty of people who are wishing you well as commissioner at the FCC." So I hung that up on my wall.

And that goes back to the cyclical theory: Better times will come. You've got to believe that.

⁶ In the *Red Lion Broadcasting Co., Inc., et al. v. Federal Communications Commission et al.* (1969) decision, the Supreme Court upheld the constitutionality of "equal time" and "right of response" requirements (collectively known as the Fairness Doctrine) against a broadcaster's First Amendment challenge, declaring, "It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount." As mentioned above, the FCC formally eliminated the last traces of the Fairness Doctrine in 2014.

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