

"Lessons from the Front: When is Pulling the Plug the Right Answer?"

**Remarks by
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Federal Communications Commission
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Introduction

Thank you, Robert (Sachs), for that kind introduction. And I congratulate you on your first convention as President and CEO of NCTA. It has been a pleasure to work with you.

I'm delighted to be here at this time of enormous growth in the technology sector. The cable industry has helped produce the greatest economic boom we have seen in three decades. You should all be proud of the role you played.

In the last four years, we have seen the promise of the Telecommunications Act of 1996 take shape. The cable industry is a strong and worthy competitor. You are building more systems and attracting more customers than ever before in your history. A true network of networks is emerging, with multiple broadband platforms developing. More than ever before, consumers have real choices — choices for both programming and carriers.

The 1996 Act is also premised on the notion of private sector investment. We are, of course, in the middle of a very critical transition. The industries we formerly thought of as distinct are converging into something new, the form of which is not yet clear. Inevitably there will be changing pains and missteps along the way will give rise to a call for government regulation.

But, as I've said at this convention in the past, market-based solutions are the best and most efficient way to sort through these changes and to satisfy the demands of American consumers.

Nevertheless, last week's dispute between Disney/ABC and Time Warner offered some valuable lessons about these marketplace dynamics. Two companies with enormous market power, one with respect to distribution and the other with respect to programming, played a game of brinksmanship at the expense of consumers. We saw market forces play out on the front pages of the nation's newspapers. But, we also saw a very tangible public backlash.

The lesson? Consumers must be respected during this period of transition. The public demands choice in both content and distribution. That is, they want the programs they want, when they want them, at a reasonable price. And once they make a choice, they do not want forces beyond their control to annul that choice.

While I believe that government should stay out of these substantive disputes between private parties, government surely has a role to play in ensuring that the battle of the “titans” does not get played out at the expense of consumers.

To the public, the Time Warner/ABC battle was a war between the rich and the very wealthy — with the American consumer caught in the middle. You and I agree that underlying this consumer perception was, in fact, a legitimate contractual dispute over costs and terms of carriage. But, as far as the public is concerned, perception is reality. Therefore, it is incumbent on all parties -- Time Warner and Disney -- to act reasonably and responsibly.

And it is instructive to look at the Internet model and think about how consumers get to choose what and when and where their content is delivered. The openness of the Internet architecture has lent legitimacy to voices that insist that they can and should control what and when and how their content is delivered.

I suspect that last week’s lessons have been well learned. But there are still lingering questions about undue market power that will be debated in the coming months. The public’s fear is that in the Internet age such market power will thwart consumer choice. We all need to take a close look at that question, but I remain optimistic that the market will sort out these issues.

Another Challenge

Last week’s headlines demonstrate that the role of the cable industry in this country is as complex as it is sometimes controversial. That’s because your position in our communities touches on our core values. If we are sometime querulous about that role, it is because you matter.

The division among editorial writers over last week’s events articulates the dilemma well. Should the free market and Washington’s current deregulatory approach continue to govern the cable industry?

Or, because of your coveted position in our communities, do there need to be limits on your actions in the marketplace. And should those limits be voluntary, or mandated by government?

I have consistently come down on the side of voluntary limits. There need to be limits because of the position of public trust you occupy; and those limits, initially at least, ought to be voluntary, because you can police your own better than we in government can.

Two Options

This essential tension between the public's interest and the purse extends to other decisions you must make: Whether to favor your own programming, or to treat all programming even-handedly? Whether to offer open access to the Internet, or to limit your customers' choices?

At the risk of oversimplification, it seems that your industry has a couple of ways to go:

It can maximize its good market position by using its systems as launching pads to openness for its customers and for the American public.

This approach puts the customer first, and it asks that customer: What services do you want, and at what levels of speed and quality? The answers probably will require multiple means of communication that essentially amount to an open window to the world: Many paths to many places.

The second approach focuses more on the short-run. It puts the business first, and it addresses stockholders more than customers. It values security over service, and protection over potential. The goal of this approach is to extend the momentary advantage of your systems by directing your customers' choices, rather than catering to them.

Better Nature

I maintain that the tradition of the cable industry's better nature is toward the first and not the second. I also maintain that cable's own self-interest is best served by the first approach.

As you know, I have been a real champion of the E-Rate program to link the nation's schools and libraries to the Internet. And it has been a great success: Over a million classrooms have joined the Internet community.

But you were pioneering the E-Rate idea long before it was law, and long before there was even an Internet. Your "Cable in the Classroom" initiative linked thousands of schools to the marvelous educational programming that you offer, and that was a real service to the youth and future of America.

Similarly, your C-Span coverage of the nation's public events is legend. C-Span One, C-Span Two, C-Span Radio . . . all have raised the level of public discourse in this country.

And at the local level, cable has played its part in providing extended coverage of local government like only cable can do. And now we are seeing the emergence of local

news channels on cable – proving that no industry has an exclusive franchise on local TV news and information.

The point is that your industry has demonstrated that it can pick the first choice – the interests of consumers – over narrow short term goals of self-interest.

And I look forward to working with you as you strive to ensure that your industry better reflects the diversity of the country. Your goal should be that the next time the NAACP issues a report card on this industry, you will feel proud of what you have accomplished. And I stand ready to work with you on that front as well.

Consumer Alternatives

In my vision of the future, in which we have a network of networks streaming digital information to consumers, in which consumers have many choices, the market will ensure that consumers get what they want, when they want it. In this world, if digital bits don't flow through your systems, they'll flow over your competitors' platforms. If we achieve the competitive world that is the promise of the 1996 Act, consumers will have alternatives.

That's one thing that concerns me about last week's events. The parties acted as if the customers did not have long-run alternatives, which they do.

First, consumers will come to Congress and the Commission and demand assurance against a repeat of last week's events.

The Time-Warner/ABC dispute raises demons of distrust among consumers, and it raises concerns about whether or not the cable industry is capable of being the honest gatekeeper to the Internet that it says it wants to be.

If cable companies do not give consumers what they want, consumers will, once again, demand that the government require the cable industry to do so. Consumers did it in 1992, and they can do it again.

Second, even if the government resists re-regulation, the customers will turn more and more to the non-cable alternatives that increasingly are available. It's one of the intended benefits of competition.

Currently, there are more than 10 million Direct Broadcast Satellite (DBS) subscribers, an increase of over 39% since our 1998 Competition Report. The Commission has been working diligently to implement the 1999 Satellite Home Viewer Improvement Act. As implementation moves forward, DBS will be able to compete more directly with the cable industry by offering consumers their local signals over satellite for the first time.

At the FCC, we have taken the mandates of the Satellite Home Viewer Improvement Act seriously. We have released orders in record time. We believe that the competition that this act brings to the Multichannel Video Program Distributor (MVPD) marketplace is in the best interests of the consumers, and we're working hard to make sure that this promise is realized.

The cable industry also should take these developments seriously. If consumers are not satisfied with their cable service, they now have alternatives from which to choose.

Go On the Offense

Sometimes the best defense is a good offense, and I urge the cable industry to go on the offensive. You can begin today, at this meeting.

First, I hope you will police your own, making it clear that consumers should never be pawns in private disputes. This may take the form of an industry-developed set of "best practices" that acknowledges the large impact your industry has on the public interest, and what are the acceptable limits of market negotiations that go against the public's interest.

Second, I hope you will continue to contain your rates. I realize last week's tug-of-war was partly over costs and the potential impact on consumer rates, and I appreciate that you saw yourselves on the side of consumers. I just hope future differences can be settled in the boardrooms rather than on a blank screen.

Finally, you must open your systems. Some MSOs have agreed to ensure that their broadband platforms will accommodate multiple ISPs. Progress has been made, but I hope you also will remember the small ISPs who can offer your customers the diversity and special attention of small-scale operators.

Pedestal

The cable industry has fought hard to occupy a pedestal of trust and leadership in our society, and in many ways you have achieved this. You should view this achievement not as an end in itself, but as a base-camp from which to seek even higher ground.

Thank you.

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