

Keynote Address of  
FCC Commissioner Kathleen Q. Abernathy

New England Cable & Telecommunications Association  
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(as prepared for deliver)

In putting together some notes for my remarks this morning I came across several quotes attributed to Ann Hutchinson, the remarkable woman who was one of the founders of Rhode Island.

Ann was the daughter of a preacher who paid dearly in her lifetime for the eloquence of her nonconformist views. Banished from the Massachusetts Bay Colony for speaking out against the intolerant governance of that colony, she came to what is now Aquidneck Island and established the first civil government in Rhode Island.

Always outspoken in her opposition to both religious and civil authoritarianism in any form, Ann responded to charges of heresy by declaring that, "Laws, commands, rules and edicts are for those who have not the light which makes plain the pathway."

Imagine that. This fearlessly independent seventeenth-century woman stood strong for her freedom, and for the ability to act and speak unfettered by attempts of the powers-that-be to restrict her actions, and her speech, to protect the status quo.

I have a feeling that, if she were living today, Ann Hutchinson would smile to see this same spirit of independence and individualism reflected in your industry. From its earliest days as "community antenna TV," cable television truly *has* held fast to the principles of entrepreneurialism and deregulation as "the light that makes plain the pathway."

Weathering regulatory challenges from anti-leapfrogging rules and distant signal quotas -- is anybody here old enough to remember those? -- through rate regulation and battles over digital must-carry, your industry has persevered to create an array of nonbroadcast entertainment and information services that have defined multichannel video service and transformed the television industry. Once just a prickly rash on the extremities of broadcasters' service areas, cable television, thanks to your unflagging entrepreneurial spirit and a favorable deregulatory environment, has become the dominant provider of video entertainment and information programming in the United States today.

And now the Supreme Court has put its imprimatur on the FCC's ability to shine that same deregulatory light on cable's advanced broadband service offerings. The recent *Brand X* decision provides the Commission with the definitive authority we have long sought to allow cable modem services to exist and grow in a minimally-regulated space.

Just as exciting, it gives us the ability to ease the regulatory burdens currently borne by wireline providers of similar broadband services. To those of us who have long sought to avoid imposing legacy regulation on new services, the *Brand X* decision is, as my nine year-old daughter Julia would say, *sweet*.

And yes, it is *sweet* -- but it is not yet *complete*. For although *Brand X* confirms the FCC's jurisdiction to refrain from imposing a daunting panoply of common carrier-type regulation on cable modem service, it says nothing about the more difficult question precisely what *other* kinds of rules we can or *should* impose in the interests of the common good. There are, potentially, a number of these: E911, CALEA, USF, perhaps even residual ISP access issues. Obviously, how the FCC fills in the blanks with respect to such issues in the months to come will affect the rollout of both cable and non-cable broadband services in the future and the ability of broadband service providers to compete effectively with each other to win the hearts and pocketbooks of consumers.

And so *Brand X*, gratifying as it is, really only shows the Commission where it can go; it doesn't tell us how to get there. In my remaining time at the Commission, I will work to bring about the least possible regulation of *all* providers of broadband, whether cable modem or DSL, whether wired or wireless. That's the surest, fastest way to assure that broadband services are available at competitive rates to every consumer wishing to subscribe.

If anyone needs proof that a light regulatory touch is better for consumers than a big book full of rules, they need look no further than your lightly-regulated industry's success in having become the dominant mode of television reception in the United States today, and in having established cable modem service as the leading player in the market for advanced broadband services.

Lest anyone think these results anomalous, they need look no further than a newly-released FCC report showing that the number of subscribers to minimally-regulated wireless services now surpasses the number of subscribers to heavily-regulated landline telephone service. Experience confirms that consumers love innovation, and marketplace competition begets innovation far better than even the most well-intended bureaucrat's attempts to micromanage it into existence.

What I would ask of you today is to remember that deregulation, the "light that makes plain the pathway," lights the way for *all* providers of telecommunications services, not just your own. To allow the greatest number of consumers possible to have access to the wonders that advanced broadband service can provide, *all* providers of that service should be allowed to enter the market and compete as free from extrinsic regulation as possible.

There is too much at stake for us, nationally as well as individually, to not allow the light of deregulation to shine equally on all broadband service providers, and to not allow all competitors, wired and wireless alike, to exercise their entrepreneurialism and far-

sightedness as the cable industry has done. In that way, *your* experience, and *your* great success, will help provide the light that will make plain the pathway for others.