

**REMARKS OF
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Good morning. Thanks for having me out here bright and early to help kick off a new week and what I think will be one of the most important dialogues taking place anywhere in the country today. And it's a special pleasure to be with so many good citizens and innovators from the Internet community. I don't know how you could have been more timely in convening this conference because the issues you discuss today are playing very prominently in both the legislative and regulatory spheres these days. Today you can add immeasurably to our national conversation about the future of the Internet and help us all to better understand what a right to connect means in the broadband age. Many of you have come from out of town and that's good because this is a dialogue that we can't afford to confine inside the Beltway. We need to shine a light on this issue everywhere in this country where there are broadband pipes and Internet users. So I hope you'll take what you glean from this event and return to your homes, businesses, blogs and communities and talk up what you discuss here and help us chart the way to the promised land.

Let me start by reaffirming the pride we all take in the Internet. We view the Internet as a place of freedom and openness. We view it as a place where innovation can flourish, where it seems almost anyone with a good idea, some technological savvy and a healthy dose of persistence can develop a business with global reach. With the genius of a dumb pipe connecting to intelligence at the edges and the common language of IP communications, the possibilities are endless. And this is indeed the way things ought to work.

But if we are not watchful, we will miss the signs that there are threats to the openness that makes the Internet so great. Some telltale clues are out there. News reports—from *Business Week* to *The Wall Street Journal* to *The Financial Times* to *The New York Times*—have sounded warning bells, suggesting a future where new broadband toll bridges may restrict the use of services like VoIP, or make it difficult to watch videos or listen to music over the web. It's not impossible to imagine these things taking place. Because the more concentrated our facilities providers grow, the more they have the ability, and possibly even the incentive, to act as Internet gatekeepers—unduly influencing the flow or speed of Internet traffic, ultimately perhaps even dictating who can use the Internet and for what purposes.

We can't let this happen. If we do, there's no doubt in my mind we will look back, shake our heads and wonder whatever happened to that open, dynamic and liberating Internet that we once knew. "What promise it held," we'll say. And if that occurs, history won't forgive us. Nor should it.

So how did we come to this state of things? Two years ago, at the New America Foundation, I posed a question: Is the Internet as we know it dying? A provocative question, perhaps. But let's look at where we are.

In the dial-up days, Internet traffic was driven by end-users. They sat at the edge of the network and with the click of a mouse or stroke of the keyboard determined where to go and what to do on the Internet. As we enter the broadband era, this end-user control is at risk. We are now in a world where there are more concentrated broadband providers with more control over the pipes that come into our homes and businesses. The telephone companies and cable providers are competing to bring us high-speed services. That's good. But FCC statistics show that together these operators control nearly 98 percent of the broadband market, with too many consumers lacking a choice between even two providers. Wireless and Broadband Over Powerline are exciting, but the reality is we are nowhere near seeing the kind of ubiquitous third, fourth or fifth player necessary to turn broadband into a more vibrantly competitive market.

If we have a competitive marketplace, by all means the government can step out of the picture and let a thousand flowers bloom. If the marketplace is truly competitive, we can rely on its genius. But in the meantime, the concentrated providers out there have the ability—and maybe even the incentive—to build networks with traffic management policies that could restrict how we use the Internet. Do you want to use your broadband connection for VoIP service? Sorry, you may have to order traditional voice service to do so. Do you want to stream videos over your broadband connection? OK, but you could pay a premium price. Do you want to use your connection for small business operations? Do you want to use the most innovative applications that the largest web-based companies are offering? Down the road this, too, new costs could await you.

When you add these practices up, what you have is the specter of broadband providers restricting where you go and what you do on the Internet. “We’re not going to do that,” they say. But history shows when firms have the technology and the incentive to do something to enhance their sway, chances are they’ll give it a try. It doesn’t make them bad people, but it *can* lead to horribly bad results.

So what is the FCC doing about it? Well, it’s a mixed bag. In August, the Commission decided to reclassify broadband transmission facilities as Title I “information services” rather than Title II “telecommunications services.” To the uninitiated this sounds like just semantics. But it has real consequences for consumers. The obligations that attach to “telecommunications services”—and that were vital to keeping the Internet open in the dial-up era—no longer apply to wireline broadband services. And there are other shortcomings, too. Reclassification brings new questions about the viability of universal service policy, access by people with disabilities, consumer protections—and even homeland security.

As an aside, isn’t it curious how we are in this new Twenty-first century with all its dazzling technologies and tools—and we’re spending all this time debating whether

the protections folks fought so hard to get for plain old telephone service in the last century should even apply in the new one?

Be that as it may, when the Commission adopted the Reclassification Order, I asked my colleagues also to adopt an Internet Policy Statement. They did, and as a result, for the first time ever, the Commission has a public document that summarizes the basic rights of Internet end-users. The Internet Policy Statement states that consumers are entitled to: (1) access content; (2) run applications and services; (3) connect devices to the network; and (4) enjoy competition among network providers, application and service providers, and content providers. The Policy Statement sends a cautionary signal to network owners who may want to set up tollbooths or restrict lanes by limiting what you can do with your broadband connection. When the Policy Statement was adopted, there were questions about its enforceability. Then, with the giant mergers of SBC and AT&T, and Verizon and MCI, we saw the consolidation of last mile facilities with dominant players that own over half of the Internet backbone. Having the carriers commit to make these rights enforceable—at least for the next two years—thus advanced the efficacy of the Policy Statement, provided time for regulators and legislators to consider making this policy permanent, and kept hope alive that consumers would continue to sit in the driver’s seat on the Internet.

That was the first act of the net neutrality story. And it’s the good news. The not so good news is that we still have a *long* ways to go to secure the future of the Net. Because Act Two is playing out right now on the Congressional stage, with the FCC in a supporting role. Act Two started with the public pronouncements from some of the big and concentrated providers of broadband service. They are searching for new business models and contending that web sites should pay for the traffic they generate. What a strange new world that would be. I can’t begrudge providers for hunting for new revenue and new opportunities—that drive helps keep our system going. But this particular proposal misses the mark, because web site content is what makes the carrier’s broadband service valuable in the first place. It seems they want to double dip—get paid by consumers so consumers can access web sites and get paid by web sites so web sites can access consumers.

I believe as a matter of public policy, we should be doing everything we can to preserve the openness that makes the Internet perhaps the greatest (small “d”) democratic platform ever devised. If providers with bottleneck control can favor their own services and content and erect tolls for unaffiliated service providers, we could end up with a truly balkanized Internet. First-class will be reserved for web sites that pay the extra tolls, and all others will be consigned to bumpy travel in steerage. This inverts the democratic genius of the Internet: it makes the pipe intelligent but the end-user dumb. It means that Internet entrepreneurs of the future could have to seek permission to innovate from the owner of the broadband pipe. It amounts to what Congressman Markey aptly called a “broadband bottleneck tax.”

It artificially constrains supply of bandwidth, at a time when the better argument might be: “It’s the bandwidth, stupid.”

Meanwhile, we are slipping perilously down the international broadband ranks. The last time I checked, we were 16th in the world and free-falling. Surely restricting what you can do with your broadband connection is not going to help us climb back up the ranks. And if you think my concerns about future problems with the Internet are over the top, take a note from what happened last summer in Canada. A major Internet provider blocked consumers' access to a web site set up by an employee labor union—because the union was critical of the provider! So imagine what could happen if your broadband Internet provider could similarly restrict or retard your access to, say, certain news sources or political sites.

I don't stand before you today claiming to have all of the answers—nor even to suggest that I have raised all the questions that need to be asked. But I am concerned. And I think we need a real national dialogue on these issues regarding consumer rights, Internet openness and broadband deployment. We need everyone—from big carriers, rural providers, high-tech companies, Internet innovators, bloggers, the news media—and most importantly, the American people involved. I think we'll find that the American people are more than happy to engage in such a discussion. This has all the hallmarks of being a grassroots, all American issue. Let me be more specific. I attended a town meeting last week in Norfolk, Virginia on the topic of media consolidation. When some of the speakers likened what was happening in media with some of the trends that could impact the Internet, the audience immediately indicated its strong and palpable agreement. It dawned on me that this issue of broadband access may just be the high voltage third rail of the consolidation debate. It's an issue that is not going away—because the future of the Internet is vitally important to all our fellow citizens. Broadband is going to be one of truly major drivers of our economy in this new century. So we need to get our national policies right. More aptly, we need to get a national policy. Because if we get this wrong, American consumers will pay and so will American technology, innovation and entrepreneurship. That's a price we can't afford.

So let's roll up our sleeves and work together—all of us—to make sure that the Internet continues to foster freedom and innovation, and that the original vision that inspired this liberating technology lives for another day and another generation. This is not just about better communications or a better Internet, it's about a better America.

Thank you.