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***EN BANC* HEARING ON BROADBAND**
NETWORK MANAGEMENT PRACTICES
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Thank you, Chairman Martin, for convening this second hearing on the importance of broadband and Internet Freedom. I hope there will be more such hearings around the country because so much, in terms of economic growth and individual opportunity, hinges on protecting the integrity and the openness of the Internet. Before delving a little into that, I would be remiss not to first thank this area's Congressional delegation for the work it does in this regard and, indeed, across the whole telecommunications landscape. The Speaker and your Senators—and we work frequently with Senator Boxer because of her important position on the Commerce Committee—provide thoughtful and truly effective leadership on these issues. And I can't say enough about your own Congresswoman, and my very good friend, Anna Eshoo. She's just an inspiration. She is a visionary leader who understands the transformative power of the Internet and the impact that technology, innovation and competition has on the economy, on creativity in this country, and on the daily lives of American consumers.

Out here in Silicon Valley, and at this great university, we have the perfect opportunity to talk about innovators, inventors, and entrepreneurs. This is the place, really, where so many of the things we take for granted every day actually got their start. Semi-conductors, personal computers, graphical user interfaces, search engines, devices like the iPhone—these are all innovations that have revolutionized communications and that got their start or went through an important stage in their evolution right here, in a place that once was just a sleepy farming community before Stanford came to the area and, later, companies and institutions such as Hewlett-Packard, Xerox PARC, Fairchild Semiconductors, Intel, Apple—the list goes on—and all the venture capitalists on Sand Hill Road who helped turn the area into the world's leading center of innovation and wealth creation. What a story!

But, you know, that innovation, that productivity, that entrepreneurship shouldn't be seen as a luxury, something that's really nice to have. Keeping it going is, rather, an urgent necessity, vital not only to the fulfillment of our individual lives but to our economic well-being and to our nation's competitive posture in the world. We've come a long way, thanks to many people in this room, but there are no guarantees for the future. And that wonderful, open and dynamic Internet—perhaps the most liberating technology since the printing press, if not even greater than that—is, in fact, under threat. We will keep it open and free only by acting to make it happen. Its future is not on autopilot and, indeed, powerful interests would bring it under their control for their own purposes—which may not be your purposes. I'm not presenting a novel theory here, I'm only learning from history. History shows that when somebody has the ability to control technology, and also has a business incentive to do so, they're going to try. And that, my friends, is what this issue of Internet Freedom or net neutrality, or whatever you want to

call it, is all about. When I say this, I'm not talking about bad people—but I am talking about some really bad results!

Let's look at it from an inventor's perspective. His or her job is to come up with the idea, go out and attract venture capital funding for it, and hopefully bring that innovation to consumers. Before they devote years of their lives, and ask investors to devote huge sums of money to their dream, they need confidence that if they invent a better mousetrap they will indeed be able to bring it to consumers. They need to know that their innovation won't be prevented from getting to market by a handful of network operators who have consolidated their control over broadband pipes all across this country. Inventors and creators need to know, up-front, that they have the right to innovate without going on bended knee to seek permission from a few who have amassed too much control in their own hands. And if they have that right, that is really good news for innovation and for consumers.

The future of that right is by no means guaranteed. Important decisions that could codify such a right have been postponed or avoided. And this is why it's time to insist upon action now. Now is the time for the FCC to add an enforceable principle of non-discrimination to our Internet Policy Statement—a clear, strong declaration that we will not tolerate unreasonable discrimination by network operators and that we have in place enforcement policies to make sure that anyone with other ideas isn't going to get away with them. And, by the way, this policy should apply to wireless as well as wireline operators.

Now I grant this won't be simple to do. These are evolving technologies and sometimes the line between reasonable network management and outright discrimination can be less than crystal clear. But that's why we need a for-sure enforcement process, to sift through complaints, to make the judgment calls, and, over time, to compile some case law and precedent so things become clearer. But I can tell you this: if everyone knew the FCC was on the job, that we had forthrightly staked out our principles, that everyone knew we would deal with any and all complaints that came in, and that those who do discriminate will be punished, word would get out pretty fast that no one should be messing around with the openness of the Net. We've done this before under Title II of the Telecommunications Act with policies and procedures that supported innovation at the edges of the networks, like the answering machine, fax machines, personal computer modems, and dial-up home Internet services like AOL and others (which provided most Americans with their first exposure to the Internet).

And while such an approach provides important safeguards for entrepreneurs just starting to get their innovative juices flowing, it does something else, too. It gives clarity to investors, not just investors here, but on Wall Street, too. An approach wherein the Commission had an enforceable rule of non-discrimination and then determines whether complex network practices abide by such a principle on a case-by-case basis would give investors in these networks more certainty, not less. Network operators and some on Wall Street might have to reconfigure the lens through which they view the Commission's principles, but I believe they would quickly come to appreciate having a clear understanding of what the rules are, and that we have a system that can account for

changes in technology and reasonable business practices. That kind of certainty breeds more, not less, investment.

We have two excellent panels with us today. I hope they will address whether net neutrality principles can be consistent with other important policy objectives as well as the ones I have mentioned—objectives like the protection of intellectual property and the protection of our children from obscene and dangerous Internet content. These are all in my estimation critical outcomes, but they raise a number of important questions which are central to our Internet dialogue.

Media historian Paul Starr points out that our country has made, at various critical points in its national passage, what he calls “constitutive choices”—important government decisions that have substantially guided the course of the nation’s media and its impact on American culture and politics. For example, by subsidizing the postal service (especially into rural areas), the nation encouraged vibrant newspaper circulation and a deeply engaged electorate in the early days of the nation. Later, in setting the rules for licensing commercial broadcasting stations (often affiliated with nationwide networks), the Federal Radio Commission and later the FCC adopted a model to ensure that for-profit programming would not ride roughshod over the notion that the people’s airwaves must serve the people’s interest. Unfortunately, we’ve too often lost our compass on that one.

Now we face a constitutive choice with the Internet—a choice between closed networks where the network operators control the user experience and open networks that are controlled by end users. This is an issue in which you must engage, not just because you are innovators and business people, but because you are citizens. If I see what’s happening accurately, I believe we will have an opportunity, before very long, to decide this issue of Internet Freedom. It will be a major fight, with powerful forces on the other side. We’ll all have to work—and much as I know folks out here like to keep their focus on all the good entrepreneurial things they are doing, they—you—are going to have to focus on this issue, focus on Washington, and put your commitment and your resources into making sure the decision comes out right. Without that kind of participation, we will likely lose. With it, we have a real shot to win. I hope you’ll join up!

Thank you very much.