

**REMARKS OF FCC COMMISSIONER AJIT PAI
BEFORE THE COMMUNICATIONS AND TECHNOLOGY TASK FORCE OF THE
AMERICAN LEGISLATIVE EXCHANGE COUNCIL**

“PROMOTING INVESTMENT AND COMPETITION IN THE SEVERAL STATES”

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I am honored to be with you today to give the keynote address at this meeting of the American Legislative Exchange Council’s Task Force on Communications and Technology. It isn’t every day that a group comes to Washington, DC to advocate for a vibrant free market, limited government, and federalism. In fact, it’s kind of like the National Coalition Against Legalized Gambling coming to Las Vegas or Atlantic City. But I am proud to stand beside you in fighting for these cherished principles. Perhaps nowhere are they more vital right now than in the communications and technology sector.

It’s an exciting time to be working in communications. We are in the midst of a major technological revolution as the Internet is transforming our nation’s telecommunications networks. Here in Washington, we call it the Internet Protocol, or IP, Transition. Folks across the country probably don’t have that phrase—the IP Transition—on the tip of the tongue. But more and more of them are not just living it but leading it.

The numbers tell the story. Just last week, the FCC released its most recent report on local telephone competition. Last year, about one in seven households with plain old telephone service delivered over copper wires dropped their landlines. Over the last four years, 33.6 million (or 43 percent) of American households with copper landlines gave them up. That is simply astonishing. The technology that connected Americans for almost a century is fading at a pace unprecedented in the history of communications.

And as it fades, consumers are embracing instead new technologies. Forty-two million households subscribed to voice over IP (VoIP) service in 2012, about twice the number from four years earlier. Indeed, last year 43.5 percent of residential landlines were VoIP!

The numbers for wireless are just as telling. In 2011, there were over 317 million wireless connections in the United States. That’s 102 percent of the population and more than twice the number of landline connections. In all, about 34 percent of American households have cut the cord when it comes to telephone service, with more than 39 million households relying only on wireless.

These dramatic changes have given consumers more choices. For example, according to the FCC’s latest figures, almost every American can choose from at least three wireline competitors. 92 percent can choose from 10 or more. On the wireless side, 92.8 percent of Americans can choose from at least four facilities-based providers—not to mention a host of wireless resellers including the fifth largest wireless operator in the United States.

All of this competition probably doesn’t surprise any of you. That’s because states have taken the initiative when it comes to telecommunications. They are recognizing how dynamic the communications marketplace has become and they are adjusting their laws accordingly. In 2005, Florida was the first state in the country to deregulate interconnected VoIP and other IP-enabled services. And in 2011, the Florida state legislature ended traditional rate regulation, eliminated tariffs, and prevented regulators from micromanaging private decisions like network design. State Representative Alan Williams, a Florida Democrat, noted the results of these recent bipartisan actions: greater broadband deployment and adoption across all demographics.

It’s notable that many other states have followed the Sunshine State’s lead in protecting IP-enabled services. In fact, the trend is so broad and so diverse that one could justifiably say—stealing a line from a prominent politician—that when it comes to the IP Transition, “There’s not a liberal America and a conservative America. There’s the United States of America.” Last year, for example, Jerry

Brown, governor of deep-blue California, signed into law a bill preventing the application of legacy economic regulations to IP services while preserving consumer protections like E911. And just this past April, Governor Sam Brownback and the state legislature of my home state, ruby-red Kansas, established a forward-looking, light-touch framework for IP-based services.

Needless to say, California and Kansas are as different as it gets: Californians famously envy our beaches, glamour, and tech scene. But even states as different as California and Kansas have agreed that next-generation services shouldn't be subject to the outdated, dominant-carrier telephone rate regulation that dates back to the Great Depression. Small wonder, then, that a majority of states have now passed similar legislation. Getting this far wasn't easy. The Task Force on Communications and Technology deserves special thanks for encouraging these reform efforts and for developing model legislation like the Advanced Voice Services Availability Act.

In responding to the IP Transition, however, allowing new IP-enabled services to thrive free from undue intervention isn't enough. Some heavy-handed rules currently apply to the old telephone services provided by incumbent local exchange carriers. Those rules saddle carriers with tariffs, rate regulation, required cross-subsidization, and other requirements inspired by 19th century railroad regulation.

Here too, states are taking the lead. Many of them—27, at last count—have started clearing out this regulatory underbrush. In Washington State, for example, the Utility and Transportation Commission ended traditional rate regulation for one local carrier this past July. They put it better than I could: “The single-provider monopoly era has given way to an environment in which a broad range of providers of telecommunications services utilize an array of technologies to provide services that enable consumers to work, play, and learn in ways hardly imagined just a few years ago.”

It's time to bring this kind of thinking from the Washington of the West to the Washington of the East. That's because, unlike most states, the federal government still regulates retail telephone rates—even though this is a narrow, ever-diminishing part of the communications market. And we do so by setting a maximum rate of return that companies can earn, by capping the prices carriers can charge, and by structuring their method for recovering costs. These regulations are obviously a burden on companies. A carrier has to spend a lot of time and money abiding by them—time and money that by definition can't be devoted to future investment and innovation.

But these regulations are also, less obviously, not friendly to consumers. Consider your monthly landline telephone bill. One thing you're likely to see is a subscriber line charge, or SLC. Some business customers might also see a presubscribed interexchange carrier charge or PICC. And almost everyone now has an access recovery charge or ARC on their bill. If you are a telephone subscriber—you didn't order any of that. The *FCC* made that happen.

In my view—and I daresay in the view of any customer who risks his eyesight and sanity and actually reads these bills—the time has come for all of these acronyms to RIP. But the FCC has had a hard time recognizing the competitiveness of the market and letting go of this kind of regulation. And this is understandable to some extent. After all, the foundations of the Communications Act stretch back one hundred years. Exactly a century ago came the Kingsbury Commitment, a historic deal in which the federal government essentially blessed a telephone monopoly in exchange for one company, one system, universal service. Now, if we've learned anything from Brett Favre and the Rolling Stones, it's that saying goodbye to anything you've done for a long time is hard.

But it doesn't and shouldn't have to be that way. The FCC can and must recognize that its regulatory regime has not aged well. For example, we still require some telephone companies to maintain lists of every single piece of property they own, even the smallest, cheapest pieces of telephone plant. And we do this even though we never seem to ask for, let alone review, that information.

We also require those same companies to maintain that plant everywhere, even as customers flee the network. As the 2010 National Broadband Plan recognized, requiring carriers to maintain legacy

infrastructure has the effect of “siphoning investments away from new networks and services.” In other words, every dollar that carriers are required to spend maintaining old networks is a dollar that can’t be spent on laying fiber or building out broadband in rural areas.

Put simply, the time has come to sunset the economic regulations developed in a bygone era. We are no longer in the past, when government-sanctioned monopolies ran copper-wire networks. We need to prepare for an all-IP future. That’s a future in which cable, telephone, satellite, wireless, and over-the-top companies compete with each other to bring innovative services at affordable prices to American consumers. To help that happen, to expedite the IP transition, we should follow the lead of the states and scrub our books of all the regulations that have accumulated over the years but have little use in today’s competitive marketplace.

Also, in the near term, we need to establish an All-IP Pilot Program. For much of the past year, I have been advocating for an experimental approach to the IP Transition, for beta testing. We should let carriers turn off the old Public Switched Telephone Network and make the transition to all-IP in a discrete set of wire centers. And then we should study the results. With localized trials in a diverse set of areas, we can see what works and what doesn’t in rural America, in urban America, and everywhere in between.

I am happy to report that FCC Chairman Wheeler announced last month that the agency will be considering an order on the IP Transition at our January meeting. I am hopeful that this order will pave the way for an All-IP Pilot Program, and I look forward to working with him and my other colleagues at the FCC to make that Program, and the nationwide IP Transition generally, go smoothly.

I also encourage states to cooperate with both the FCC and carriers that elect to participate in such trials. States that host these trials will be in the vanguard of the all-IP future and will be well-positioned to seize the opportunities it will bring, from job creation to better services for consumers.

So that’s enough about the FCC and what we should be doing. What about the states? What can state governments do on their own to facilitate the IP Transition? Two ideas immediately spring to mind.

First, states should be proactive in reducing regulatory barriers to infrastructure investment. A next-generation broadband network isn’t built in a day. And wireless operators can’t just put up new 4G LTE cell sites on demand. But there are currently many obstacles to deployment that do little more than raise the costs of new networks, impede competition, and delay the roll out of new services. To access government-owned rights of way, it commonly takes months. To get the permits necessary to build a new tower or string new wires, it can take years.

There is a better way. Take Kansas City. Not only is the City of Fountains home to world-famous barbecue and the football team that will beat the Washington Redskins this weekend; it was also the first site of the Google Fiber project. And one key to making Kansas City appealing to Google was a package of reforms to lower the costs of broadband deployment. One significant problem, for instance, is the time that it takes to permit and inspect installation. That’s why Kansas City committed to review all permits within five days and let Google “use an approved third-party inspection firm to assist the City in completing necessary inspections in a rapid, timely manner.” Simple reforms such as these can create powerful incentives to invest and to build. Kansas City’s approach has created a reform blueprint for municipalities and states across the land.

But it’s not just wired infrastructure that needs a boost on the state and local levels. Wireless infrastructure does too. And again, simple reforms would go a long way towards reducing the costs of deployment. Prohibiting local moratoria on new wireless infrastructure would be a good measure. Another would be exempting unobtrusive wireless facilities, such as small cells and distributed antenna systems, from local review altogether. The FCC took a parallel step earlier this year, proposing to exempt such systems from our environmental processing requirements. Enacting reforms such as these would put a state ahead of its competitors, attracting more investment, more jobs, and more opportunity.

Second, states should make it easier to use the Internet for innovative, over-the-top business models. To see what I mean, consider the cases of Uber, Lyft, and Sidecar. These innovative companies took the ubiquity of mobile Internet access and are using it to transform the taxicab industry. Mobile apps let consumers hail a car from their phone, see whether any nearby cars are available, and know before they head out into the cold how long it will be until the car arrives. Rates are displayed ahead of time, and consumers can easily estimate the cost of a ride before they even hail a car. They don't even need to hand the driver cash or plastic; it's all paid online. This kind of innovation and competition is good for consumers and proves the value of mobile broadband.

But Uber and its colleagues are not universally loved. Incumbent taxicab operators understand the competitive threat these disruptive innovators present. And they've persuaded cities like Los Angeles and Washington, DC to make these upstarts jump through many regulatory hoops as they seek to compete. The aim seems to be to shoehorn them into an exclusionary licensing scheme if not prohibit them altogether. Companies and consumers alike pay the price for this. With the threat of new regulation in every city and county across the country, over-the-top companies are likely to shun smaller markets and slow their expansion into new territories. So one step to improve this situation might be to secure at the state level the right to innovate for all over-the-top providers. Think of it as a complement to the legislative work you've already done to protect VoIP providers from traditional rate regulation.

The need to empower IP-enabled entrepreneurs arises in almost every field. Take medicine. The in-person doctor's appointment hasn't gone away. But broadband is letting doctors take their practices beyond the walls of the hospital by letting them connect with patients near and far.

Telemedicine offers the promise of lower costs and higher quality. I've seen it personally. In Kansas City, I saw how pediatricians from the University of Kansas Medical Center can examine children remotely before they are sent home from school. This reduces classroom absences and lets parents stay at work with the peace of mind that their kids will be treated. In rural Alaska, I saw how a broadband connection gave far-flung communities access to specialists year-round. And here in Washington, I learned that the biggest barrier to the spread of telemedicine wasn't a lack of broadband or interest. Instead, as the staff of the National Children's Medical Center told me and my colleague Commissioner Jessica Rosenworcel, it's the state-by-state licensing of medicine and the barriers to out-of-state practice. Whatever sense these licensing regimes made fifty years ago, they make little sense today for doctors, patients, and the rest of the public. So I hope that state legislatures across the country will reduce these barriers. States could allow reciprocity, which would let doctors practice telemedicine across state lines. Think of what it would mean if a patient could see an out-of-state specialist for the cost of an out-of-state phone call, rather than an out-of-state flight. That's big. That's broadband. And that's within our grasp.

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In closing, states have led the way on a bipartisan basis to embrace the IP Transition. And I believe that the agenda I've outlined will have appeal across the ideological spectrum as well. By acting consistently with the principles of free markets, limited government, and federalism, we can pave the way for progress.

I congratulate you on the good work you've done on these issues in the past and look forward to working with you in the future. And going forward, please keep making your voices heard here in Washington. I know that the work can seem painstaking, but you have a lot to contribute as we enter the dawn of this new and exciting technological age. As one of my favorite poems puts it:

And not by eastern windows only,
When daylight comes, comes in the light;
In front the sun climbs slow, how slowly!
But westward, look, the land is bright!

Thank you.