

**Remarks of Tom Wheeler,
Chairman, Federal Communications Commission
National Cable & Telecommunications Association
April 30, 2014**

It's great to be with you, and great to be in L.A.

I had originally intended to open this with some light banter about being back here. But there is a serious issue that I want to address right away – the future of the Internet. I want to specifically direct these remarks to you, the nation's largest providers of broadband connectivity.

We have circulated a Notice of Proposed Rulemaking to my fellow commissioners on the topic of the Open Internet. There are two things that are important to understand. First, this is a Notice, which asks a number of questions and seeks input on the best way to protect and promote the Open Internet. Second, all options are on the table. Our goal is to put into place real protections for consumers, innovators and entrepreneurs that until now have been only a matter of debate and litigation. I believe this process will put us on track to quickly get to legally enforceable Open Internet rules.

I am interested in results. The Commission has been trying to do something for almost a decade, starting, in fact, when Michael Powell was Chairman. It's time for this job to be finished. We have been waiting long enough.

Because cable has become a principal provider of broadband, this is an appropriate forum to discuss our intentions. If you read some of the press accounts about what we propose to do, those of you who oppose net neutrality might feel like a celebration was in order. Reports that we are gutting the Open Internet rules are incorrect. I am here to say wait a minute. Put away the party hats. The Open Internet rules will be tough, enforceable and, with the concurrence of my colleagues, in place with dispatch.

For all the millions of Americans who access the Internet, and to you who provide broadband connectivity, it is only fair to spell out some expectations that will inform the proposed Open Internet rules on which we are seeking public comment.

The D.C. Circuit in the *Verizon v. FCC* decision upheld the Commission's judgment that, "absent such rules such as those set forth in the *Open Internet Order*, broadband providers represent a threat to Internet openness and could act in ways that would ultimately inhibit the speed and extent of future broadband deployment."

I believe that innovation is fragile and that, as we said in our 2010 Order, broadband providers have "incentives to interfere" with competing edge-providers and, as the D.C. Circuit wrote, have, "powerful incentives to accept fees from edge providers, either in return for excluding their competitors or for granting them prioritized access to end users."

Our proposed course of action builds on the court's strong legal justification for regulation that guarantees every user the ability to effectively use the Internet. We are beyond the question of the scope of the FCC's authority; the court has decided that. Knowing that authority, we now must move expeditiously to make it manifest.

There has been a great deal of talk about how our following the court's instruction to use a "commercially reasonable" test could result in a so-called "fast lane" and Internet "haves" and "have nots." This misses the point that any new rule will assure an open pathway that is sufficiently robust to enable consumers to access the content, services and applications they demand and innovators and edge providers the ability to offer new products and services.

Put another way, the focus of this proposal – on which we are seeking comment – is on maintaining a broadly available, fast and robust Internet as a platform for economic growth, innovation, competition, free expression, and broadband investment and deployment. Our goal is rules that will encourage broadband providers to continually upgrade service to all. We will follow the court's blueprint for achieving this, and, I must warn you, will look skeptically on special exceptions.

In the 30 years since I last stood on this stage I have built new technology-based companies as an entrepreneur, and helped other companies grow as a venture capitalist. I know in my bones how hard it is to start a company with innovative ideas. Now, as Chairman of the FCC, I do not intend to allow innovation to be strangled by the manipulation of the most important network of our time, the Internet.

As an entrepreneur and as an investor, I understand the importance of supplying businesses with certainty. That's another reason why the sooner we can get enforceable rules in place, the better off everyone will be. Internet entrepreneurs and those who support them need the certain knowledge that their ability to get to market will not be degraded by manipulation of the Internet.

Let me be clear. If someone acts to divide the Internet between "haves" and "have-nots," we will use every power at our disposal to stop it. I consider that to include Title II. Just because it is my strong belief that following the court's roadmap will produce similar protections more quickly, does not mean I will hesitate to use Title II if warranted. And, in our Notice, we are asking for input as to whether this approach should be used.

Since we are in Los Angeles, let me use a highway traffic metaphor. Prioritizing some traffic by forcing the rest of the traffic into a congested lane won't be permitted under any proposed Open Internet rule. We will not allow some companies to force Internet users into a slow lane so that others with special privileges can have superior service.

Consumers have rightfully come to expect quality access to all points on the Internet. Blocking access to lawful content and services would be inconsistent with the transaction that made them your subscribers.

The bottom line on the proposed Open Internet rules is that the Internet will remain an open pathway. If users can't effectively use the pathway then the conduct will be a violation of the Open Internet rules.

I do not expect this debate to end today and I don't want it to. We are moving quickly to tee up the issues and invite discussion and debate. Let's move this process forward.

Now that I've addressed that topic at the front of everyone's mind, let me revert to my favorite activity—historical reflection. And to a theme that encapsulates my perspective on your industry, namely from those to whom much has been given, much is to be expected.

In my professional lifetime, the industry has gone from Cable 1.0 to Cable 2.0.

Cable 1.0 was all about video. The industry, along with DBS, enabled an enormous expansion in the quantity and quality of video content. The record provides substantial reason for industry pride, although any celebration should be tempered by continuing criticisms involving both price and service.

Today's Cable 2.0 industry is different in two significant ways:

First, it is now the incumbent, not the insurgent.

Second, as we have been discussing, it has transformed from video to broadband.

The move from Cable 1.0 to Cable 2.0 was accompanied by an almost unimaginable change in cable's regulatory circumstance. It has gone from regulatory constraints that were breathtakingly inhibiting to regulatory constraints that are barely discernible.

In my present line of work, I encounter people who believe that the FCC's broadband deregulation was equivalent to the discovery of fire and invention of the wheel and others who believe that it was the equivalent of original sin. I don't propose to join in that debate today, nor to attempt to sort out whether deregulation and levels of cable investment in broadband are causal or coincidental. But I do want to point out that for all of its importance, cable today confronts relatively little regulation in its principal business, which has become, and will continue to be, broadband.

But, as we have been discussing with regard to the open Internet, that does not put it in a zone free of obligation and oversight.

I have written and spoken about the Network Compact—the essential relationship between those who build and operate networks and their consumers. There are five components to the Network Compact: access, interconnection, consumer protection, public safety, and national security. Especially in connection with broadband, both you and we at the FCC have important responsibilities to the American people with regard to these values.

It is not too much to say that our nation's prosperity, security, and values are affected in fundamental ways by your broadband networks.

Our prosperity is a function, among other things, of the quality of our broadband networks, and therefore of the investments you make in their construction, operation, and maintenance.

Our security is a function, among other things, of the reliability of our broadband networks, and therefore of the effectiveness of the measures you undertake to protect them.

Our values are implicated, among other things, by our ability to transmit and receive facts, ideas, and opinions, and therefore of the practices you adopt with respect to the openness of our broadband networks.

As a result of the importance of our broadband networks, our society has the right to demand highly responsible performance from those who operate those networks.

And the FCC has the responsibility to oversee such performance and to intervene if it falls short. At the FCC, our focus is on the availability, security, and openness of your broadband networks. Let me address each for a moment.

On availability, we believe that the private sector must play the leading role in extending broadband networks to every American. That's why we are committed to removing barriers to investment and to lowering the costs of broadband build-out. But we also are interested because, in Section 706 among other places in the Communications Act, Congress has placed broadband deployment and infrastructure investments very high among our priorities.

We also recognize that there are some areas where it doesn't make financial sense for you to build. That's why the Commission modernized our Universal Service Fund to focus on broadband, establishing the Connect America Fund. Already, the Connect America Fund has made investments that will make broadband available to 1.6 million unserved Americans, and, just days ago, the Commission voted to move forward with Phase II of the Connect America Fund.

As part of our universal service reforms, we are making a major effort to recast the E-rate program—to assist schools and libraries in securing broadband services at advantageous prices. Here is a place where you can and should apply the expertise you have developed in supplying broadband services to small and medium-size businesses. If you can configure good service and good deals to SMEs, you can and should do it for our schools and libraries.

That the security of broadband networks is a matter of utmost significance and urgency is not news. We are at a critical juncture. The more we learn about the challenges of cybersecurity and the costs of failure, the more apparent the importance of addressing it with best efforts, including yours. We know that these are non-trivial issues. We also know that the best solutions come from when we work together to identify solutions and get them implemented throughout the industry. This must be done in a deliberate, responsible and transparent fashion that balances security, privacy and innovation.

Cable is already working with the FCC to do just that within our Communications, Security, Reliability and Interoperability Council (CSRIC). We expect the outcome of CSRIC's work to be an industry-led effort to proactively assess cyber readiness within your companies, communicate your risk assessments with your boardrooms and share relevant elements of the assessments between partners in the larger ecosystem. And we expect this to be done in such a way that those charged with oversight across the regulatory tapestry, recognize and understand the accepted cyber risk. The CSRIC workgroup is leveraging the NIST Cybersecurity Framework as a starting point for this. Over the course of the year we will need to see this translate into actual implementation. We're intending this to be a new regulatory paradigm, and we're giving you the opportunity to write it. I urge you to step up, so we don't have to.

In addition to ensuring the availability and security of our broadband networks, we have to assure the openness of the networks and the Internet for all lawful uses. I have said plenty about that today, and you can be assured that I will raise it every time I am invited to address an NCTA gathering.

But I would add one more point today: One of the most effective tools for ensuring Internet openness is competition. I developed a great deal of my regulatory philosophy in the days when cable was fighting to be allowed to compete. As you probably have heard, the mantra today at the FCC is "Competition,

Competition, Competition.” Competition promotes efficient pricing, technical progressiveness, consumer protection, and, yes, private investment. Case in point: AT&T just announced plans to expand fiber networks that can deliver 1 Gigabit per second service to up to 100 communities. I applaud Randall Stephenson for his initiative, and see this as a challenge to the cable industry similar to the advent of DBS. I hope you respond in a similar manner as you did back then. You stand where you are today in large part as a result of how you expanded your networks to meet competition from the sky; I am hopeful you will respond competitively once again. If you do, this new competition will provide ever-improving performance by all concerned to the benefit of the public.

This latest news does not change the historical fact that, for many parts of the communications sector, there hasn't been as much competition as consumers and innovation deserve. Given the high fixed costs and consequent scale economies, this isn't especially surprising. But that makes it all the more important that we knock down public and private barriers to competition and avoid erecting new ones. It is equally important that we encourage competition wherever it is possible.

One place where it may be possible is municipally owned or authorized broadband systems. I understand that the experience with community broadband is mixed, that there have been both successes and failures. But if municipal governments—the same ones that granted cable franchises—want to pursue it, they shouldn't be inhibited by state laws. I have said before, that I believe the FCC has the power – and I intend to exercise that power – to preempt state laws that ban competition from community broadband.

Throughout this discussion of how to promote the availability, security, and openness of world-class broadband networks, you'll note that, in every instance, I spoke not only of the FCC's responsibilities, but also of your industry's.

As I said at the beginning, when it comes to broadband, the cable industry has important technical advantages, a leading market position, and very limited regulation. It is, to engage in understatement, an unusual situation. The only way to maintain this situation is to uphold your responsibilities. If you do, it will benefit not only your industry, but it will also contribute to the prosperity, security, and values of our nation.