

**REMARKS OF FCC COMMISSIONER AJIT PAI
AT THE NATIONAL ASSOCIATION OF BROADCASTERS SHOW**

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In 1996, Bill Gates wrote a seminal essay on the future of the Internet. The title was “Content Is King,” and it focused on business opportunities in the brave new online world. Gates made a bold prediction: “Content is where I expect much of the real money will be made on the Internet, just as it was in broadcasting.” Back then, he concentrated on how online publications could displace printed magazines and journals.

But today, a new type of content has emerged as king. Video is now online royalty.

The statistics paint an HD picture, so to speak. In 2013, IP video comprised 66% of all consumer Internet traffic. Some estimate that by 2018, that figure will grow to nearly 80%. Indeed, one video provider—Netflix—now accounts for over 35% of all peak-hour downstream traffic in the United States. And each minute, 300 hours of video are uploaded to YouTube. To put that in perspective, in the time it takes to finish this session, the equivalent of about 6,000 NFL games, 1,900 *Lord of the Rings* trilogies, or 36,000 episodes of *Modern Family* will be posted.

In the United States, 78% of adults who are online use the Internet to watch or download videos. 56% of American adults who are online watch how-to instructional videos; 50% watch educational videos; 50% watch music videos; and 27% watch sports videos. And over one-third of all Americans watch news over the Internet.

And it’s not just a matter of the number of video bits or viewers. The variety of Internet-based content is astonishing. You can watch original award-winning programs, such as Amazon’s *Transparent*. You can watch user-generated six-second videos on Vine, such as those featuring Norman the Scooter dog, a five-year-old Briard who can ride a scooter, bike and skateboard. Or you can absorb past programming online at your leisure. For example, on YouTube, you can watch in HD one of the greatest, most inspiring events in world history: the 2008 NCAA men’s basketball championship, in which national darling Kansas stormed back from a nine-point deficit with 2:12 remaining to take the crown.

The phenomenal growth in the online video marketplace is impossible to ignore. One could well argue that we’re at the beginning of a profound revolution in the business of video distribution. The line between programming and distribution is blurring.

And the very meaning of “programming” and “distribution” is changing. For instance, programmers such as CBS and HBO are establishing their own online streaming services. Services such as iTunes allow users to purchase movies or television shows *a la carte*. And applications like Meerkat are opening new doors for user-generated content. Each week, it seems that there is a surprising new development in the marketplace.

One notable trend is that more distributors are offering over-the-top video packages designed as alternatives to cable and satellite bundles. Sony, for instance, recently launched its PlayStation Vue service, which delivers over 80 channels online. Now, for a monthly fee, those with PlayStations can watch the NYPD’s 99th Precinct fight crime, catch up with the *Real Housewives of Beverly Hills*, or watch the Yankees lose to America’s team—the Kansas City Royals.

Another new over-the-top service is DISH’s Sling TV, which allows subscribers to stream live and on-demand TV to their Internet-connected device. Offered separately from DISH’s satellite service, Sling TV includes cable channels such as ESPN, CNN, Food Network, and offers optional add-ons like Bloomberg and the SEC Network.

And DirecTV recently launched its own over-the-top service: Yaveo, a standalone online streaming service providing access to Spanish-language sports and entertainment programming. Marketed primarily towards Hispanic viewers, Yaveo includes programming ranging from the telenovela *La Malquerida* to the universally appealing *Paul Blart: Mall Cop*. Perhaps most impressively, Yaveo is a joint venture between DirecTV, Univision, and Viacom, thus proving that it is possible for satellite or cable operators, broadcast networks, and video programmers to get along!

These are just a few of the companies using the power of the Internet to redefine video. The list literally goes from A to Z, from Apple to Zattoo.

From my perspective, the bottom line is that all of this is great for consumers. Americans have access to a wider variety of video programming over a wider variety of platforms and devices than ever before. Today, I can catch *Mad Men* on my laptop while my wife keeps up with the Kardashians on television and my son watches *Sesame Street* on an iPad. Complaints that there's nothing on television worth watching are being replaced by regrets that there isn't enough time in the day to watch all the shows that makes this a new Golden Age.

As you might expect, a rapidly changing marketplace is raising challenges for regulators. What role, if any, should the FCC play in this dynamic space? Should the Commission continue to allow the vibrant online video market to flourish and evolve on its own? Is Internet video regulation a solution in search of a problem? Or has over-the-top video become too important for the FCC to ignore? Are there problems in the marketplace that can only be resolved by FCC intervention? All important questions to answer. Indeed, the online video space is changing so fast that from a regulatory perspective it can seem like a modern version of that ancient Socratic paradox: "I know that I know nothing."

In December 2014, the FCC released a Notice of Proposed Rulemaking seeking comment on these critical issues and proposing to regulate some online video providers in a manner similar to cable operators and satellite providers. The Commission tentatively concluded that it should interpret the statutory term "multichannel video programming distributor" (MVPD) to include certain over-the-top providers—specifically, those who make multiple linear streams of video programming available for purchase.

We've received broad, diverse feedback in response to our proposals, and broadcasters have come out on different sides of the issue. NAB, for example, has argued that classifying some online video services as MVPDs will "enhance competition in the multichannel video program distributor [] marketplace." And the ABC, CBS, Fox, and NBC Affiliates Associations have said that taking this step will promote diversity and "encourag[e] the development of new technologies for the delivery of programming." The Affiliates Associations also say that broadcasters will benefit from bringing online video providers within the ambit of the retransmission consent regime. Absent FCC action, they worry that cable operators and satellite providers will be able to avoid their retransmission consent obligations by migrating their services to the Internet.

However, others in the broadcasting business have a different view. They oppose additional regulation of over-the-top services. For instance, Disney, Fox, and ABC told the Commission that "market forces will continue to drive video innovation, there is no market failure to address, and that imposition of additional regulation may limit, rather than increase," consumer choice. They also pointed out that broadcast programming is already available online thanks to private agreements based on copyright licenses rather than retransmission consent. Finally, Comcast, the owner of NBC Universal, argued that treating online video providers as MVPDs would "vastly increase the scope and burden of regulatory obligations" on broadcasters, vertically-integrated networks, and over-the-top providers alike.

Just like broadcasters, online video distributors are also divided. For instance, Amazon opposes classifying over-the-top providers as MVPDs. It says that "tremendous investment in online video content has attracted an enormous number of viewers, yielded award-winning programming, and has

occurred under the current regulatory system with no government assistance.” It criticizes the FCC for “seek[ing] to graft a twentieth-century economic and physical distribution model onto a modern digital media platform.” On the other hand, FilmOn supports the agency’s proposal, arguing that it will “enhanc[e] the ability of new providers to provide consumers greater access to valuable content” and promote regulatory parity among competitors in the video marketplace.

To sort all of this out, our distinguished panel of speakers will discuss this afternoon whether the FCC should classify online video providers as MVPDs, and if so, which ones. We will also try to shed light on the practical impacts of the FCC’s proposal on subjects like retransmission consent.

My role at today’s session isn’t to expound, but to explore. Our panelists are experts with differing perspectives on the topic, and I look forward to learning from a robust but respectful debate. Whatever the disagreements, I hope we can find some common ground. For one thing’s certain: The Internet is reshaping the video marketplace in ways we’ve only begun to see. The small screen has never seemed so big.