

**REMARKS OF COMMISSIONER AJIT PAI
AT THE BILL OF RIGHTS INSTITUTE'S KANSAS PUBLIC LECTURE**

**“A FREE MARKET, IF YOU CAN KEEP IT:
THE NEED FOR ONLINE INNOVATION, NOT REGULATION”**

WICHITA, KANSAS

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There's no place like home.

It is great to be back in my home state of Kansas. And it is an honor to have been invited by the Bill of Rights Institute to deliver this annual lecture. The Institute's mission includes promoting a society in which all individuals have the right to life, liberty, and the pursuit of happiness, and one where “parents empower their children to apply these rights in their own lives through interaction, example and dialogue.”

This mission statement struck a chord with me because it reminded me of my own childhood. So I'd like to start off this evening by telling you a little bit about my family.

I grew up about 125 miles from here in Parsons. For those who don't know, Parsons is a small town of about 10,000 people in the southeastern corner of the Sunflower State. That was the end point of my parents' journey, but it was thousands of miles from where they began.

My parents were raised in India and came from humble roots. One of my grandfathers ran a spare auto parts shop; the other was a file clerk for an oil company. But through hard work and determination, their children—my parents—were able to go to medical school. After graduating, my parents decided to move halfway around the world and continue their medical training in the United States and Canada. Once they finished that training, they had a choice to make. Would they practice in Canada or the United States? For them, the choice was simple.

Only in the United States would they have the chance to be entrepreneurs, to build their own practice, and to treat patients without a looming government bureaucracy. Their decision to move here reflected their values. They didn't travel thousands of miles from India hoping that government would give them a better life. They left home so that they could build a better life for themselves. They wanted the freedom to pursue happiness as they defined it.

To this day, my parents retain a healthy skepticism of government. Back in 2011, when I was informed by the White House that the President intended to nominate me to serve on the Federal Communications Commission, I was honored and humbled by the chance to serve. But when I called home to share the good news, my mom's reaction wasn't what I expected. She seemed worried about me leaving the private sector. So she had some questions. Was being an FCC Commissioner a full-time job? Did it pay? If it didn't work out, could I go back to being a partner at my law firm? Thankfully, after more than three years as a Commissioner, my mother is confident I won't be moving back into my old room.

I didn't appreciate it at the time—I'm sure few children do—but I'm so grateful now that as I was growing up, my parents instilled their values in me, both through their actions and their words. I saw firsthand the importance of individual initiative and hard work. I saw my father leave our house before dawn to drive long distances to treat patients throughout southeast Kansas. I saw my mom leave our house countless times in the middle of the night when a call came in about a mother-to-be who needed an epidural. I was told to focus, to persevere, to aim high—all wise advice, whether you are an awkward high-school student (which I was) or a regulator in our nation's capital (which I now am). And because

of my parents' example, I grew up wanting to be worthy of the sacrifices that they made so that my sister and I could have an even better life than they did.

The way I see it, I saw the American dream unfold just a couple of hours away from here. And much of what motivates me each and every day in my current job is a desire to give more children across our country from all walks of life that same chance to realize that dream.

That's why I am so passionate about the Internet, and in particular making sure as many Americans as possible can get high-speed Internet access. Today, broadband is one of the most important paths to economic opportunity in America. High-speed Internet connections have made it easier than ever before for Americans to pursue their own dreams. It has created a phenomenon that I like to call the democratization of entrepreneurship.

Today, in the world of commerce, who you are or where you happen to live matters less than ever before. The Internet levels the playing field. Any entrepreneur with a good idea and a broadband connection can make the world his or her customer base. That entrepreneur can compete with any company, anywhere.

What a remarkable change that is, when you think about it. Just think of how many rural Americans in the analog era must have had innovative ideas but no way to pursue them unless they moved to a big city. Maybe they left, making their hometowns a little smaller and poorer. Or maybe they just gave up, putting their hopes on the shelf. Now, because of broadband, the barriers to turning inspiration into reality are disappearing. It's easier than ever for businesses in the heartland to grow.

I've had the chance to see this for myself. In South Dakota, I met a woman named Chelsea Pickner. She founded Chelsea's Boutique, a brick-and-mortar clothing store in Sioux Falls. Chelsea simply wanted to sell the clothes she designs to women in South Dakota. But thanks to the Internet, she expanded her horizons. She began marketing her products on social media and through a website, and her business took off. Now, Chelsea's Boutique ships to all 50 states and can find suppliers anywhere in the world. And just last week, she opened a second store in Sioux Falls—one that features shoes and accessories. That store is selling merchandise online as well. You might still think of Paris or Milan before Sioux Falls when it comes to fashion. But because of broadband, you might actually prefer to buy clothes from Chelsea—a talented entrepreneur who can compete with designers all over the world, and who is creating jobs in South Dakota as she does.

Moving south, this past August, I visited Diller, a town of 287 people in southeastern Nebraska. There, I met Chad and Courtney Lottman, a husband and wife who started C&C Processing. Twenty years ago, C&C was a mom-and-pop slaughtering operation that had a simple website and a local customer base. Today, it's hired dozens of employees, some all the way from Omaha. It sells its retail products nationwide over the Internet. And its wholesale products can be found in grocery stores everywhere. Whether you're cheering on Jordan Spieth at a PGA Tour event or shopping at Whole Foods, you can find C&C's meat marketed under the Blue Valley Brand, Pony Express Ranch, or EPIC Jerky. Broadband is important to the company in other ways, too. Chad showed me the app he uses to monitor his facilities remotely. And he told me how C&C employees can make inspection records immediately available to the U.S. Department of Agriculture through electronic filings instead of having to fill them out by hand.

Chelsea, Chad, Courtney—they, like so many more small-town entrepreneurs, are thriving in the digital age. What a privilege it's been to meet them. They're revitalizing small towns. They're creating jobs. They're realizing their dreams. All because of technology.

This democratization of entrepreneurship isn't just a rural phenomenon. It's reached cities, too. I've visited tech incubators from San Francisco, California to Columbus, Ohio, Kalamazoo, Michigan to Birmingham, Alabama, Atlanta, Georgia to Reno, Nevada. In all of them, you'll find start-up entrepreneurs of all ages working hard to turn their ideas into successful businesses. And most of their

business plans depend, in one way or another, on the Internet. In another era, most of them probably would have ended up working for larger businesses owned by someone else. With broadband, they can take charge of their own destiny.

Perhaps the best example of the link between high-speed Internet access and entrepreneurship is Startup Village in Kansas City. Startup Village began largely by happenstance when entrepreneurs converged on one of the first Kansas City neighborhoods where Google Fiber rolled out gigabit Internet speeds. I can tell you that when I was a kid, nobody could imagine that neighborhood becoming a business hub. But now, Startup Village stands at the epicenter of Kansas City's growing technology community. Earlier this year, I had the chance to meet with many Village entrepreneurs. They made clear that broadband was putting not only Startup Village, but Kansas City generally, on the high-tech map.

It's not just entrepreneurs who are benefiting from the digital revolution. The Internet also empowers those who don't want to start their own businesses. The sharing economy is a case in point. Because of ride-sharing services like Uber, you can use your own car to make money when you want to work, not when someone tells you that you have to work. Last Saturday, in New Orleans, I took an Uber ride with Trinette. Trinette is an African-American woman who for years had supported herself and her now college-age daughter by baking cakes. But that wasn't what she really wanted to do, even though she was good at it. Baking was a fairly solitary activity, and she was forced into a rigorous schedule to meet customers' orders. With Uber, she has the freedom to work when she wants, she meets all kinds of people, and she earns more money to boot. As she put it, Uber "feeds into who I am." Can you think of a better way than that to describe love of your work?

It's more than just ride-sharing. Thanks to services like Airbnb, if you have a spare room in your house, you can earn some extra income by renting it to travelers from all over the world. Of course, all of this is good for consumers, too. It gives them more choices, lower prices, and greater convenience.

While I'm on the topic of the sharing economy, I should note something that's received too little attention. When the government gets out of the way and allows the sharing economy to operate freely, that is a form of supply-side economics. For at their core, what do companies like Uber and Airbnb do? They increase the supply of services in the marketplace. They allow more cars to enter the transportation market and more properties to enter the lodging market. This expansion of supply is a win-win proposition. It gives the new suppliers greater economic opportunity and offers consumers with all of the benefits that flow from greater competition. So the next time that you hear someone use the phrase "supply-side economics" in a derogatory fashion, ask that person if he or she likes Uber or Airbnb.

As all these examples show, the Internet has done more to advance economic freedom than any other development in recent history. It has made it easier to start a business. It has expanded markets. It has created consumer value. In short, it has empowered more Americans to pursue their own happiness.

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It's fitting, then, that this boon to the cause of economic liberty owes its own success to free-market policies. To be sure, the Internet started as a government-funded and government-led network of networks. The National Science Foundation Network (NSFNET) was the backbone connecting universities and research facilities. But on April 30, 1995, the Clinton Administration dissolved NSFNET and placed the Internet in private, commercial hands.

And the next year, the Clinton Administration and a Republican Congress made a landmark bipartisan decision. In the Telecommunications Act of 1996, they made it the policy of the United States to "preserve the vibrant and competitive free market that presently exists for the Internet" and that the Internet should remain "unfettered by Federal or State regulation."

For almost 20 years, the federal government largely stayed faithful to this approach. Over the years, some wanted to get the public sector's hands back on the Internet. But every FCC Chairman, Republican and Democrat, rejected that approach. Instead, they embraced light-touch regulation, regulation that gave the private sector strong incentives to build high-speed broadband networks. Those policies were incredibly successful. Since the passage of the Telecommunications Act of 1996, telephone companies, cable operators, wireless providers, and others have invested more than \$1.4 trillion to connect Americans with digital opportunities.

In particular, our country's free-market policies produced much better results than the utility-style regulation prevalent in Europe. A study of 2011 and 2012 data shows that wireline providers in the U.S. invested more than twice as much per person as their counterparts in Europe (\$562 per household versus \$244) in broadband infrastructure. And on the wireless side, U.S. providers invested twice as much in their networks as their European brethren (\$110 per person compared to \$55). Indeed, over the past 15 years, American companies have reinvested 26.3% of their revenues into broadband infrastructure, as opposed to only 16.9% for European companies.

Consumers in our country have benefited immensely from all of that investment. For example, in the United States, 82% of our population and 48% of those living in rural areas have access to 25 Mbps broadband speeds. In Europe, those figures are only 54% and 12% respectively. And in the U.S., broadband providers deploy fiber to the premises about twice as often as they do in Europe (23% versus 12%). On the wireless side, 4G LTE, the fastest mobile broadband technology in wide deployment, covers 98% of Americans compared to only 27% in Europe. And on average, mobile speeds are 30% faster here than in Europe.

In sum, consider these words, uttered two years ago: "Europe is losing the global race to build fast fixed broadband connections. Concretely: [telecommunications] companies are under-performing, other businesses are losing competitiveness and frustrated consumers are stuck in the [I]nternet slow lane." Cranky FCC Commissioner? Nope: that was the assessment by the European Commission itself!

America's free-market approach didn't just produce fast networks. It also aided those technology companies that deliver services over those networks, companies that are often referred to as "edge providers." It's no accident that the world's largest and most well-known edge providers were born right here in the United States: Google, Facebook, Amazon, Netflix, Twitter. Google is now worth more than the entire cable industry. Amazon's market cap gain this year is greater than the combined GDP of Hungary and Bolivia. Facebook's stock appreciation over the past two years is greater the entire value of Verizon. The astonishing success of these companies is something to be celebrated. And it's a product of our nation's restrained regulation of the Internet and the robust broadband networks that resulted.

Indeed, our government's hands-off policies helped create an Internet ecosystem that is the envy of the world. Just think of how far we've come since the Telecommunications Act of 1996 became law. Today, we can binge-watch Netflix, listen to Spotify on our iPhone, sync our Fitbit to our Android phone, upload videos to YouTube on our HP desktop, troll Facebook on our Microsoft Surface, watch a movie purchased from Amazon on our Smart TV, and change the temperature of our home from our iPad. At the dawn of this century, these were nonsensical words. Now, they're as natural as rain. And let me be clear: The federal government didn't build that. Somebody else made that happen. And that somebody was the private sector. Free to innovate, companies took risks and spent massive amounts on a platform that's the envy of the world.

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There's an old saying I'm sure you've heard that was popularized by Jimmy Carter's budget director, Bert Lance: "If it ain't broke, don't fix it." Lance went on to say: "That's the trouble with government: Fixing things that aren't broken and not fixing things that are broken." And that, in my

view, is an apt description of what happened at the FCC earlier this year with respect to Internet regulation.

In February, on a party-line vote, the FCC abandoned the bipartisan consensus of light-touch regulation that had served our country so well. In technical terms, it reclassified broadband service as a Title II telecommunications service. What does that mean? It means regulating broadband like the Ma Bell telephone monopoly of the 20th century or the railroads of the 19th century. It means subjecting Internet service providers to pervasive public-utility regulation. It means putting the federal government at the center of the digital world.

You might ask: Why did the FCC make this decision? Why would we abandon the federal government's successful, free-market approach to the Internet? Why would we try to fix something that wasn't broken?

Unfortunately, much of the answer has to do with politics. The FCC is supposed to be an independent agency. Unlike executive branch agencies, such as the State Department and Defense Department, we are not under the direct control of the White House. The President may not fire an FCC Commissioner simply because he disagrees with him or her on a particular issue. (I hope my mom reads this.)

That's because the FCC was designed to be an expert agency, one which focuses on the law and the facts, not political convenience. But that's not what happened here. In 2014, the FCC was poised to reject public utility regulation of Internet service providers. That is where the law and the facts, not to mention common sense, were leading us. But then something changed.

On November 10, 2014, six days after midterm elections that did not go well for his party, President Obama released a YouTube video unveiling his plan for regulating the Internet and urging the FCC to implement it. The centerpiece of his plan was treating all broadband service providers like slow-moving monopolists—in telecom parlance, reclassifying them as Title II telecommunications carriers. This would mean regulating them like public utilities, as we do water and electric companies.

What did the FCC, a supposedly independent agency, do? It capitulated to the White House's demands. Approximately three months after the President released his YouTube video, the FCC dutifully adopted his plan for Internet regulation. The document was 313 pages long, and the American people never got to see it until well after we voted on it.

This is not how the regulatory process at the FCC should work. Indeed, according to the *Wall Street Journal*, the President's plan was developed through "an unusual, secretive effort inside the White House." White House officials, according to the *Journal*, functioned as a "parallel version of the FCC." Their work led to the President's announcement of his plan for Internet regulation in November, a plan that "blindsided" the FCC and "swept aside . . . months of work" at the Commission.

And you don't have to take my word for it. Just listen to what one of the leaders of Fight for the Future, a group that demands greater Internet regulation, said at the time: "We've been hearing for weeks from our allies in DC that the only thing that could stop FCC Chairman Tom Wheeler from moving ahead with his sham proposal to gut net neutrality was if we could get the President to step in. So we did everything in our power to make that happen. We took the gloves off and played hard, and now we get to celebrate a sweet victory."

But that "sweet victory" was about more than politics. It was also about advancing a broader agenda. It was about government control.

Most people see an Internet free from government oversight as something to be celebrated. We understand that the Internet is the greatest free-market innovation in history. We know that it would not be what it is today had it been saddled with government rules. And we understand that there are few greater threats to its advancement than a government regulator who boasts "I'm here to help."

But some disagree. They disdain a free-market approach to the Internet because they believe that *every* major sector of our economy should be subject to extensive government regulation. And in particular, they believe that the Internet is too big and too important not to be subject to government control.

Consider, for example, the views of a co-founder and current board member of Free Press, a Washington, DC special interest group which has led the charge for more Internet regulation. At the beginning of the Obama Administration, he said: “At the moment, the battle over network neutrality is not to completely eliminate the telephone and cable companies. We are not at that point yet. But the ultimate goal is to get rid of the media capitalists in the phone and cable companies and to divest them from control.” And who then would take control of the Internet? That would be the government.

And here is what he had to say the year before: “Any serious effort to reform the media system would have to necessarily be part of a revolutionary program to overthrow the capitalist system itself.” What would replace the capitalist system? Well, later in 2008, he called for “remov[ing] brick by brick the capitalist system itself, rebuilding the entire society on socialist principles.”

Do you trust someone like this to steer the future of the online world? Of digital innovation, entrepreneurship, and freedom? I don’t. And the vast majority of the American people don’t either. But unfortunately, those who favor greater government control of the Internet did a skillful job at organizing those on the political fringes, generating media attention, and distorting the facts.

From listening to them, you would have thought that broadband service providers regularly blocked their customers from accessing content. You would have thought that Internet service providers regularly set up online “fast lanes” where content companies would have to pay extra, while those companies that refused to pony up were relegated to the “slow lane.” These activists painted a picture of vast digital dysfunction—dysfunction, of course, that could only be cured by the federal government.

When the FCC buckled and subjected broadband providers to public-utility regulation this year at the President’s behest, it took a similar tack. The Commission ominously warned that “[t]hreats to Internet openness remain today,” that broadband providers “hold all the tools necessary to deceive consumers, degrade content or disfavor the content that they don’t like,” and that the FCC continues “to hear concerns about other broadband provider practices involving blocking or degrading third-party applications.”

The only problem with all of this: none of it is true. You would search the FCC’s decision in vain, and I did, to find anything more than hypothetical harms. One would think that a broken Internet marketplace would be rife with examples of ongoing anticompetitive abuse. But the agency didn’t identify a single one. And let me assure you that it wasn’t for lack of effort.

Here is the simple truth. The Internet was open before the President’s announcement. We weren’t living in an online dystopia until these heavy-handed regulations were adopted. So the government now claiming credit for keeping the Internet open is like the rooster claiming credit for the sunrise. That is why I have long said that the agency’s regulations were a solution in search of a problem.

But it’s really much worse than that. That’s because public-utility regulation is a government solution that is going to cause real-world problems.

Remember: Broadband networks don’t have to be built. Capital doesn’t have to be invested. Risks don’t have to be taken. And the more difficult the FCC makes the business case for deployment—and micromanaging every aspect of an Internet service provider’s business makes it more difficult indeed—the less likely it is that broadband providers big and small will connect Americans with digital opportunities. The less likely it is that they will make the investments to upgrade networks and increase speeds. And the less likely it is that they will offer innovative service plans.

The difficulty with the FCC's regulations isn't just their breadth. They're also vague. And this vagueness has injected tremendous uncertainty into the market. At least with easy-to-understand, bright-line rules, a business can plan. But a thick regulatory haze will make any rational business hold back on investment.

To give just one example, the FCC adopted a net neutrality rule in February that is known as the "Internet Conduct" standard. This vague rule gives the Commission complete discretion to decide which business practices of broadband service providers are permissible and which are not. Immediately following the FCC meeting where this rule was adopted, a reporter asked for an explanation of what conduct the rule prohibited. And in response, the FCC's Chairman admitted that "we don't really know" what the rule means and that "we don't know where things go next." Instead of providing any specific guidance, he analogized the FCC to a football referee and said that it would throw the flag if it saw behavior that it didn't like.

That answer, I would submit, is the very definition of regulatory uncertainty.

The following week, the FCC's Chairman remarked that subjecting the Internet to public utility-style regulation is "no more regulating the Internet than the first amendment regulates free speech in our country." Now, I give him credit for trying to couch the FCC's decision as being consistent with our nation's founding principles, but it shows a very different take on our Constitution. The First Amendment is one of our most cherished principles because it operates as a *restraint* on government. It lets ideas compete in the marketplace free from any government intervention or regulation. It quite clearly has nothing in common with the FCC's decision to subject the Internet to extensive government control.

We're now seeing the results of the FCC's Internet regulations. The results aren't good. During the first six months of 2015, there was an 8% decrease in major U.S. broadband providers' capital expenditures. And numerous smaller broadband providers told the FCC earlier this year under penalty of perjury that the agency's regulations were leading them to cut back on infrastructure investment and broadband deployment. That means billions of dollars in foregone investment, tens of thousands of lost jobs, and ultimately, fewer entrepreneurs like Chelsea, Chad, Courtney, and Trinette.

One of them was KWISP Internet, a provider serving 475 customers in rural Illinois. KWISP told the Commission that, because of the agency's decision, it was delaying network improvements that would have upgraded customers from 3 Mbps to 20 Mbps service, new tower construction that would have brought service to unserved areas, and capacity upgrades that would have reduced congestion for existing customers. Another was Wisper ISP, Inc., which serves about 8,000 customers around St. Louis. It reported that the FCC's decision to impose public utility regulation had caused it to put on hold its plans to triple the number of new base stations it would deploy each month so that it could provide broadband to customers in new areas.

Only twice before has our nation experienced a decline in broadband providers' capital investment: after the dot.com bust in 2000 and the Great Recession in 2008. The current dip isn't a coincidence or accident. Much of it can be directly attributed to the FCC's policies.

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At this point, you might be wondering, where do we go from here?

On the day that the FCC adopted public-utility regulation for the Internet, I said that I was optimistic that we would look back on that vote "as an aberration, a temporary deviation from the bipartisan path that has served us so well." And there are many avenues for rolling back the agency's rules. They could be vacated by a court. They could be reversed by Congress. Or they could be overturned by a future FCC.

About nine months later, I am still optimistic that these regulations' days are numbered. The longer that these rules are in effect, the clearer it will become that these regulations are harming competition and consumers. And it is important to recognize some of the rules haven't even fully kicked in yet. For example, one consequence of the agency's new regulatory approach will be a new tax on every American's broadband bill. But recently, we were told that the broadband tax won't come until after court challenges to the FCC's new rules are resolved.

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Unfortunately, everything I've talked about is consistent with a broader trend in our country. Government power is expanding. And many aspects of freedom—the freedom to innovate, to speak, to build, to create—is diminishing. Reversing the tide, with respect to Internet regulation or any other sector of our economy, won't be easy. It will require dedication and commitment.

In 1964, Ronald Reagan delivered a now-famous national television address on behalf of Barry Goldwater. He said that the central issue then confronting the American people was this: “Whether we believe in our capacity for self-government or whether we abandon the American revolution and confess that a little intellectual elite in a far-distant capitol can plan our lives for us better than we can plan them ourselves.”

Today, when it comes to Internet regulation and so many other issues, our nation is confronting a similar choice. Are we going to be true to the principles set forth in our nation's founding documents? Or are we going to continue to cede more and more control of our lives and our economy to the federal government?

And that is why the Bill of Rights Institute's mission is so important. The rights to life, liberty, and the pursuit of happiness must not become dead letters on a piece of parchment. We must keep them alive in our schools, our homes, our businesses, and in the halls of our government. We must ensure that they remain “habits of the heart,” those uniquely American values that de Tocqueville marveled at almost two centuries ago. The Bill of Rights Institute fights each and every day to preserve these values, and many, many Americans stand with you.

Among those Americans are my parents. Like millions of naturalized immigrants, they have also played their part in renewing our nation's commitment to those principles. They have lived their lives pursuant to those values, ever since arriving in the United States with nothing but \$10, a radio, and a determination to succeed. And they have passed them along to their children. As a father, it is now my job to instill these values in my two young children.

And as a government official, it is my duty to apply these principles to my daily work. And so long as I have the privilege of serving at the FCC, that is exactly what I intend to keep doing.