

PREPARED REMARKS OF FCC CHAIRMAN TOM WHEELER

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It's great to be at The Cable Wait. Let me start over.

It's great to be at INTX: The Internet & Television Expo.

"Cable" isn't in the title of this show any more.

Of course, I remember when the show was creatively named CATV '77 and then some whippersnapper (and Barbara York) changed the name to the Cable Show.

Congratulations on once again reimagining this industry and this gathering.

Reflecting back on the days of CATV and forward to the broadband era is to trace an amazing path: from community antenna television, to the expansion of television, and now beyond television to broadband.

You deserve congratulations for what you achieved as cable companies, video providers and network builders.

You also deserve straight talk about what it means now that you are first and foremost broadband companies.

You have pledged as an industry to assure the Internet remains open and free.

In that goal, we are in violent agreement.

We differ, however, on just what that means.

We part company, according to your recently filed motion papers, over the so-called "Internet Conduct Standard" – the requirement that Internet Service Providers not engage in conduct that impairs an open and free Internet, beyond the obvious bright lines of blocking, throttling, and paid prioritization.

The Internet Conduct Standard is the "going forward" rule.

Often people say to me, "I know you won't do anything crazy, but what about those who follow you?"

My response is, "I take you at your word to protect an open Internet, but what about those that follow you?"

The purpose of the Open Internet order is not to create an obstacle course to test the ingenuity of ISPs in how they may structure certain activities.

It is, rather, to address broad outcomes, not just the bright line rules of blocking, throttling, and paid prioritization.

The purpose of the General Conduct Standard is to address effects that are antithetical to the concept of openness – namely, to not unreasonably interfere with or disadvantage access to the public Internet.

So, too, with the application of Title II to interconnection arrangements.

On June 12 there will be in effect strong protections to shield against harm to an Open Internet.

We cannot go backwards.

Beyond the Open Internet, however, I want to celebrate today the two great accomplishments of the cable industry – accomplishments that run from your roots to today – and one great new challenge created by your evolution beyond cable television to become the nation's dominant broadband provider.

Part I of the story begins when the primary business of cable systems was video.

Cable was an investor in infrastructure, a fierce competitor and an innovator.

The first accomplishment of that era, of course, was the coaxial wiring of America.

It is something that took an enormous effort by what began as a remarkably entrepreneurial, but also fragmented, industry.

It required a tremendous amount of civil engineering and a tremendous amount of ingenuity to meet the extraordinarily diverse circumstances of our far-flung nation.

It was accomplished against the determined opposition of a telephone industry that recognized from the very beginning the threat inherent in a second wire into the home and office.

And it was accomplished despite legal constraints on the industry's offerings that very often were downright hostile.

Now as everyone in this audience knows, the investment that set the foundation for today's industry was undertaken for purposes that have almost nothing to do with what the industry has become.

What began as a coaxial cable network designed to retransmit distant broadcast television signals has become, literally, an essential part of our country's infrastructure.

The metamorphosis began when smart engineers recognized that fiber and coaxial networks could be combined to produce very high speed transmissions.

In the intervening 25 years or so, the resulting hybrid fiber coax network has become an enviable combination of cost-effective efficiency and scalability.

And it has become the enabler of one of the most transformative developments in human history.

In the process, it also provided an illustration of the challenge and response nature of competition, a theme I have emphasized since my arrival at the FCC.

Two decades ago, as the cable industry began to expand its broadband capabilities, the telephone industry responded by unleashing DSL, a technology that had long existed but had not been deployed to American homes.

Both cable and telco customers benefited-and both businesses flourished.

The resulting telephone and cable competition helped bring us to where we are today-vastly better transmission speeds and an unimaginably larger and more vibrant Internet ecosystem.

The second great accomplishment of your industry was the expansion of programming that your (and to be fair, the DBS industry's) distribution network facilitated.

The great increase in programming is a reflection of the effect that your industry's entrepreneurial energy and investment have had on the broader ecosystem.

Good distribution systems do that sort of thing-they invigorate new uses.

Today's viewers may not be fully conscious of it, but the increase in the quantity of programming available to the public is, according to Professor David Waterman, the FCC's Chief Economist, "the most astounding chapter in the history of television."

The story can be told in quantitative fashion.

The number of cable TV networks has grown from just a handful in the mid-1970s to over 900 today.

(The FCC itself stopped counting at 565 in our Annual Video Competition Report for 2006.)

In investment terms, cable networks spent only about \$250 million on their programming in 1983.

Thirty years later, that figure had exploded to over \$26 billion-more than twice the program spending of all of the national broadcast networks combined.

The result is an enormous inventory of programming.

The expansion of programming is seen (and heard) in shows that push the boundaries of creativity, like "The Sopranos", "Homeland" and "Mad Men" – all of which appeared on so-called "cable" channels.

It also greatly expanded sports programming, from the game of the week to the ability to watch the Ohio State Buckeyes every week all the way to the National Championship.

If, as some say, this is truly the Golden Age of television... then you made it possible.

And, like your entry into Internet access in the 90s, the creation of so many programming possibilities in this century spurred others to respond, including new and potential competitors who use your broadband pathways to deliver video to their customers.

Which brings us to Part II.

Last year at this gathering, I said that you had become more about broadband than about video, that your principal business "has become, and will continue to be, broadband."

And that's true.

Last year, the cable industry hit a critical tipping point.

In the second quarter of 2014, and for the first time, the number of cable broadband subscribers exceeded cable TV subscribers.

And the trend has continued.

You have wisely changed the name of the cable show to emphasize the Internet.

But there's a more profound name change going on.

You are no longer the "cable" industry.

You are the leading association of leading broadband providers.

The decision of Comcast and Time Warner Cable to abandon their proposed merger is relevant here.

Brian Roberts' leadership that it's "time to move on" was not only a thoughtful response, but also directionally correct.

It is time to look forward, not backward.

This is not the time to dwell on the reasons why both the Federal Communications Commission and the Department of Justice reached the conclusion that this proposed transaction would not be in the public interest.

But it is important to understand that the tipping point from cable to broadband came while the transaction was under review.

We recognized that the industry had changed and we saw concrete evidence of the new competition and business models made possible by high-speed Internet access.

In other words, we recognized that broadband had to be at the center of our analysis, and that video was, in essence, an application that flows over networks and that could be supplied both by the owners of facilities and by competitors that use broadband pathways to compete against the owners of those broadband pathways.

This shift has implications for the industry at large.

When I appeared before you in the second quarter of last year (at the moment of the tipping point) I made two points that remain important.

First, I said that "we have to assure the openness of the [broadband] networks and the Internet for all lawful uses."

I am living up to my commitment at that time that, "you can be assured that I will raise it every time I am invited to address an NCTA gathering."

And second, I said that "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," I said, "an unusual situation."

"The only way to maintain this situation is to uphold your responsibilities."

So, now, your principal business is broadband.

The service you offer is critically important to all Americans.

From getting and keeping a job, to staying in touch with family and friends, accessing entertainment, engaging with government, not to mention doing schoolwork if you are a student – and countless other applications.

And the broader ecosystem you help support is extremely important to the creation of American innovation.

As you have changed, so have the issues, obligations, and the opportunities.

This is the key challenge for your industry.

First, to continue to invest and to innovate so that the United States has first class broadband transmission facilities.

Second, to live up to the commitments that you have made in the Open Internet debate, to avoid discriminatory acts that will impair the value of broadband and the Internet to those who make use of its manifold possibilities.

There are some factors that can complicate meeting these obligations.

You don't have a lot of competition, especially at the higher speeds that are increasingly important to the consumer of online video.

A fully competitive marketplace would bring with it intense and constant pressure to continue to improve – just as it did in the days of cable-DSL competition.

More competition would be better.

That is why we granted the preemption petitions filed by two communities that wished to expand their gigabit networks into surrounding areas, including where people had no broadband at all.

I recognize the challenges of overbuilding, and to encourage it is not to assume its immediate appearance.

And while I know it is an anathema to your geographically-defined way of looking at the industry, I believe – as some have already demonstrated – that it can also be an opportunity.

Many years ago at NCTA we passed out Lucite paperweights in which were embedded small dried flowers.

Imprinted on them was, "Plant a flower in the vast wasteland."

By bringing competitive alternatives to television viewers, this industry did just that – and the video business was changed forever.

Then your industry went on to upgrade, compete with the telcos, and dominate broadband.

Now the question is whether consumers will have competitive alternatives for broadband.

To harken back to what you did before, will you now plant a flower in the competitive broadband desert?

Now, I know the only rationale for such an investment is to generate economic return.

That is why the Open Internet order was constructed so as to put broadband providers in a situation where they could profit from the value of their investments free from any limiting rate regulation.

History proves that absent competition a predominant position in the market such as yours creates economic incentives to use that market power to protect your traditional business in a way that is ultimately harmful to consumers.

This was Chairman Powell's message in his well celebrated Silicon Flatirons speech in which he identified four "Internet Freedoms" that it was essential that the industry preserve.

This was a recognition, repeated often since and most recently in the Open Internet order, that it is not just useful, but necessary, to ascribe rights to the users of the Internet distribution system vis-à-vis the owners and operators of the system.

Your challenge will be to overcome the temptation to use your predominant position in broadband to protect your traditional cable business.

The Internet will disrupt your existing business model.

It does that to everyone.

You have disrupted your business twice before on the path from CATV, to cable programmers, to broadband.

Those who stay on top are the ones who embrace the change.

In ways large and small, the FCC has done and continues to do what it can to encourage your industry to meet its broadband-related challenges and responsibilities.

Large measures include the Open Internet order's freedom to secure a return on your investments while also prohibiting actions that would harm the Open Internet.

The Open Internet requirements are intended to safeguard the Internet's dynamism by assuring what your companies have pledged – that the Internet will remain open and free.

The Commission has its work to do as well to clear obstacles to competition.

We will proceed to consider whether to adopt a technologically-neutral definition of a multichannel video program distributor and, to be candid, I favor a technology-neutral definition that includes Internet-based companies that choose business models that fit this status.

New obligations from Congress are also focused on competition.

An advisory committee is working hard to deliver a report by September on the critical question of security that promotes the commercial availability of MVPD-supplied devices.

And we must begin a rulemaking to review how to apply the totality-of-the-circumstances test to assess whether retransmission-consent negotiations are being conducted in good faith.

On these issues, we will seek your comment, and we are committed to empowering competition.

And one more important thing that has come into focus following our Open Internet Order.

I intend to ensure that you do not confront excessive rates for pole attachments.

Today the Wireline Competition Bureau is issuing a short public notice calling for comment on the pending NCTA and COMPTTEL petition for reconsideration seeking to clarify the Commission's intent from its 2011 reforms to level-set the cable and telecommunications rates for pole attachments.

Once the record is refreshed, my expectation is that a recommendation will be made to the full Commission to take any action it can to further align cable and telecommunication rates.

I know that this industry and this association do not support the recent Open Internet Order.

As I have made plain at the outset, I believe the rules we have crafted provide what's needed to enable an economic return that will justify new investment, and secure an Open Internet.

But I also believe that we can note where we agree, and not only where we disagree.

This year, Michael Powell told Congress that "cable broadband providers are unequivocally committed to building and maintaining an open Internet experience."

We welcome that pledge.

Maintaining, improving, and protecting the broadband transmission system is the right thing to do.

America depends on it.

Thank you.