

**REMARKS OF
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Thank you to the Open Technology Institute for having me here today to talk about the future of television.

To get us going, I am not going to start with television. Instead, I am going to start with a book. Earlier this year, Thomas Friedman published “Thank You for Being Late.” In it, he makes the case that 2007 was the year that technology took over. His evidence is pretty good. After all, it was in 2007 that we first came to know the iPhone, Android, and Kindle. It was the year that IBM started Watson, bringing cognitive computing to popular culture and Hadoop launched, helping usher in the era of big data. It was the year that software began—as the founder of Netscape so presciently suggested it would—to “eat the world.”

We may look back on 2007, a decade ago, and see an inflection point in history. But I’m going to argue now that two years earlier—2005—deserves a second look. Two thousand and five may not have been a hinge moment for technological change. But I think it made its mark—by giving us an early glimpse of forces that would shape our future.

YouTube began in 2005, bringing with it the novel concept of user-generated content. Today, that’s just what we create and what we watch. Gaming got a boost in 2005 with the introduction of the Xbox 360. Today, interactive gaming is a business worth \$109 billion annually. That is about the gross domestic product of Latvia and Luxembourg combined. Also in 2005, Stephen Colbert coined the term “truthiness.” I think it’s fair to say that has some relevance in our discourse now—and leave it at that.

One more point about 2005—it’s when Congress passed the Digital Television Transition and Public Safety Act. You may not remember it, but this law set up the future of television.

The Digital Television Transition and Public Safety Act laid out a framework for the move from analog to digital broadcasting. But it did more than introduce a new standard with improved sound and picture quality, known as ATSC 1.0, because it created a schedule. As part of this schedule, it featured an end date for a nationwide transition. In addition, it put in place a program to help viewers ensure that their existing television sets would continue to work after this technology change. In other words, Congress took the lead—and this law laid out the path.

In response, the FCC took its cues from Congress. The agency made a series of policy choices under this law, including the auction of spectrum recovered from analog service. Then, it decided to do something really smart. It decided to test the transition itself. The agency selected Wilmington, North Carolina, as a test market. It worked with community leaders, broadcasters, cable, and satellite providers to ensure that residents were ready to go—a full nine

months before the deadline in the law. There were plenty of public service announcements and town hall meetings. There were more FCC visits to coastal Carolina than you could count. But the end result was good and helpful because the agency was able to work with local officials to review what happened and inform its efforts going forward.

Next, the FCC took the lessons learned from Wilmington and did a test statewide. As a result, Hawaii—the last state to join the union—became the first state to fully transition to digital television. Again, the FCC took notes and learned from the experience—to help facilitate the nationwide rollout.

If you look back now at what was put in place in 2005, it clearly laid the groundwork for the future of television. There were adjustments made along the way, but what stands out are three things. First, the transition was a decision with the full backing of Congress. Second, it featured a program to prevent viewers from bearing the full cost of losing service on their existing television sets. Third, the FCC explored the transition in test markets before unleashing this change nationwide. Consequently, up and down the television ecosystem, stations, distributors, and manufacturers were prepared. Moreover, and more critically, consumers were not saddled with big bills for new television sets or new equipment.

Like I said at the start, we could learn a lot from what happened in 2005.

But that was then—and this is now. Next week the agency plans to vote on an Order clearing the way for Next Generation Television. That means the agency is set to vote to on the introduction of ATSC 3.0. In other words, we are set to change the television standard yet again.

To be clear, there is a lot to be excited about with this new standard—Ultra High Definition picture quality and immersive audio, advanced emergency alerts, and innovative interactive services. This is good stuff. It could mean real innovation for broadcasting—on par with new services that have emerged on so many other screens all around us. But I think the agency is about to rush this standard to market with an ugly disregard for the consumer consequences.

The FCC has released its draft decision proposing the changeover. As you might expect, it's riddled with the wonkish language of standards and lawyerly details of licensing. So you have to step back if you want a clear-eyed look at what it really means for consumers.

If you do, this is what you will see: This new standard may be glorious, but it is not backwards-compatible with current television devices. That means every one of us will need to replace existing television sets or buy new equipment. The FCC calls this market-driven. That's true—because we will all be forced into the market for new television sets or devices.

To be clear, this won't happen immediately, because for the time being the FCC calls the new standard voluntary. While it's voluntary, however, stations will have the right to negotiate with cable and satellite companies for the simultaneous carriage of ATSC 1.0 and ATSC 3.0 signals. That means consumers could find their bills going up because they will be stuck paying

for two signals—even though their current television equipment can only receive one. That sounds a lot like paying more and getting less.

I think the way the FCC plans to proceed is no great boon for consumers. It's a tax on every household with a television.

It's time for the FCC to go back to the drawing board and find a less disruptive way to facilitate broadcast innovation. There's a way to do it. It's right there in the 2005 playbook.

What is missing here are the three critical features of the approach from 2005.

First, there is no congressional mandate. What we have instead is a few unelected FCC officials making decisions about when you need to buy new televisions, acquire new equipment, and locate the HDMI port on the back of your set.

Second, there is no program to defray the cost of the new devices, equipment, or television sets that consumers will need to purchase.

Third, there is no test market or sandbox to experiment to understand our policies before unleashing them on a national scale.

So where do we go next? I think the responsible thing for the agency to do is to work with Congress to set a framework in law. I also think we need to find a way to reduce the costs this transition imposes on consumers. But, because innovation should proceed in the interim, I think the FCC should immediately find a new Wilmington. In other words, it's time to test ATSC 3.0 in a single market and commit to learning from the experience *before* giving the green light nationwide.

If we do this, there will be plenty to study. Because there are still big questions about this new standard. For starters, I think we need to better understand the consumers at risk of being left behind. I also think we need to better understand targeted advertising on televisions and the implications for privacy, the use of encrypted signals, the collection of audience data, and the susceptibility to hacking and malware.

In addition, the FCC needs to better understand the patent issues involved. When the agency adopted the ATSC 1.0 standard, it made clear that reasonable and nondiscriminatory terms were part of the package. In the current proposal, this issue is addressed in no more than a footnote. Moreover, we know that Sinclair Broadcasting—which holds essential patents for ATSC 3.0—has been one of the biggest champions of this new standard. We also know that they have pending before the agency the biggest broadcasting transaction in our nation's history. Before we authorize billions for patent holders and saddle consumers with the bills, we better understand how these rights holders will not take advantage of the special status conferred upon them by the FCC.

In “Thank You for Being Late,” Thomas Friedman writes about more than 2007. He writes about the pace at which we adapt to change. He makes the point that technological

change is coming at all of us faster than ever before. Like everything else, broadcasting can be part of that innovative rush. But I think what the FCC has before it now is imprecise and cavalier in its disregard for consumers. I believe the transition should leave no viewer worse off, and leave us all better off. I think that kind of future is still possible for next generation television—but we need to take a cue from 2005 if we want to get there in a way that works for everyone.

Thank you.