Prepared Text

Speech by Blair Levin, Executive Director, Omnibus Broadband Initiative, at the Electronic Privacy Information Center, January 22, 2010.

Thank you.

I particularly want to thank Mark, whose work I have followed for years and who has been both visionary and relentless in pushing on an issue which has always been important and, as I know you all know, will only be more so in the future.

I want to start with what my team was asked to do. As many of you know, in the Recovery Act, Congress set aside more than 7 billion dollars for NTIA to establish a grant program designed to provide a short-term stimulus to fund broadband infrastructure build-out.

In addition to that program, Congress asked the FCC to develop a Plan for the long-term development of broadband in America. It asked us to evaluate those grants, and analyze the most efficient and effective mechanisms to get broadband infrastructure to all Americans.

But Congress asked us to look beyond networks, too.

It asked how we could achieve greater affordability, and increase adoption of broadband by Americans everywhere.

It asked how broadband could advance a number of national purposes: energy, health care, public safety and consumer welfare, among others. And it asked how to ensure maximum utilization of broadband, and how to realize its transformative potential.

Many still focus only on the first question—how can we get the fastest networks to the most number of people?

And that question is complicated—especially as the economy has not yet fully recovered and the deficit grows—by a lack of funding. The cost to fill the gaps in broadband availability are greater than the funding provided by those NTIA grants and the FCC's Universal Service Fund. We just don't have don't have enough money to directly fund all the gaps Congress wanted us to close.

But while money is sometimes an easy answer, it is not necessarily the right answer. Indeed, even if the budget climate were different, the first step should not be to ask how big does a check need to be; rather the first question should be are there assets that can be more effectively utilized?

In our case, the more precise question is this: are there assets that the government controls, either directly or indirectly, which are ineffectively utilized and therefore represent an obstacle to achieving the Congressional directives?

Turns out there are several.

As we started looking at the record, three assets under government control emerged as highly underutilized: spectrum, rights of way, and universal service.

There has been a great deal of public discussion of these, and there will be a lot more.

And I am happy to answer any questions you might have about any of these.

But I wanted to talk to you today about the single most important asset for the development of broadband.

That is, of course, data.

One thing that became clear as we were doing our analysis, was that while networks are important---as proven by how cable's initial broadband effort sparked massive new investments into connectivity---and devices are important---as proven by how the iPhone has transformed the smartphone business---what really drives use, and therefore upgrading of networks and devices, is how people use the platform.

This all depends on data.

To a significant degree, this is not really a problem. There's lots of data out there and the explosion of broadband demonstrates that it is being incorporate in a flood of applications. Market forces are doing their job in driving innovation through the use of data.

But as we looked further, there were two data gaps that did strike us as significant.

The first is the use of government data.

Government data, as shown by a variety of examples, can help drive very popular applications, thereby driving up the value of use, networks, and devices, all of which contributes to achieving the Congressional goals.

There are issues about what should be made available, and how it should be made available and we are working on those.

The second gap is personal data.

Indeed, personal data may turn out to be the single most important underutilized asset in the American broadband ecosystem.

Of course, recognizing the value of personal data is nothing new. But the emergence of fixed and mobile broadband, and the growing adoption and utilization of the Internet makes collection, aggregation and monetization of detailed personal data easier and more valuable. Increasingly, more detailed and sophisticated digital profiles of internet users, pulled from many data sources, are being created and stored by thousands of private firms.

When I began to understand this, my first reaction was to think of personal data as a balancing act. That somehow, the right policy environment was to make sure that there was the right balance between people having privacy and control of their own data, companies having the means to innovate and develop new applications to maximize utilization of broadband.

And make no mistake; there is a lot of value to be created in such applications.

After all, end-user information is a major driver of value creation and a fundamental element of innovation. This data can be used to infer a consumer's needs, infer a user's buying habits or even their future needs and intentions, all of which create services that are increasingly tailored to individual consumers.

This value creation isn't limited to advertising. It can lead to value in other areas, too: enabling digital health monitoring devices, improving health outcomes for patients, helping reduce an individual's carbon footprint, tracking an individuals educational path to determine appropriate materials for improvement, or creating a more targeted audience for political, social and charitable causes.

Given all this, we thought that striking the right balance between end-user privacy and legitimate business interests would create the most dynamic ecosystem, and best serve Americans.

But I have slowly started to realize that that wasn't the most productive way of thinking about the problem.

I finally came to realize that ensuring privacy, and control of personal information, isn't something that hinders innovation, and utilization of broadband. This is why data is the most underutilized asset in the American broadband ecosystem: because the accurate belief that personal data is not always secure, that privacy is not always protected, is a barrier to broadband use.

It's clearly correlated with the adoption of broadband—nearly 60% of those who have not adopted broadband believe that it is too easy for personal information to be stolen online.

What's more, even 40% of people *with* broadband were concerned about the security of their personal information. This concern almost certainly hinders utilization of broadband—people don't want to use applications that they fear will compromise their privacy.

After all, you would never deposit your money into a bank without insurance—so we created the FDIC. Now, we need to provide assurance that your data will be as secure on the Internet as your money is in the bank.

In short, it is not about a balance. It is about a minimum level of control and confidence that consumers must have to unleash this extraordinary value.

With that in mind, as many of you know, we recently issued a public notice on privacy and personal data. We started by asking

about meeting consumer expectations of privacy—specifically, what can federal agencies do to help ensure that consumer expectations of privacy are met as new technology platforms are developed?

Next, we asked about privacy by design—are there existing technical standards that can help promote privacy by design? And what can the federal government do to promote privacy by design?

Third, we asked about transactional data. Are the current rules on government access to and use of transactional data held by government agencies sufficient to ensure that this data cannot be abused?

Finally, we asked what the responsibilities are for companies that create new platforms that vet third party applications?

Ultimately, all of these questions feed into an important larger question: how do we ensure the level of data security needed to protect privacy and stimulate an even more robust broadband ecosystem?

We need your help. It's critical to get this right. Only a secure Internet will allow us to fulfill our Congressional mandate. Getting this right will allow us to advance our most important national purposes—it is the foundation stone for new applications in health care, energy, education, job training, and government performance.

What's more, a secure Internet is critical for economic growth. We are not Internet leaders by some metrics—today, we don't have the fastest networks, or the highest levels of adoption. But we may be the leader in the most important metric—we are leaders in creating value on the Internet

We're fortunate to have Google, Apple, Facebook, and Microsoft as U.S. companies. With only a few exceptions, it is very rare for large numbers of Americans to use applications developed elsewhere. But around the world they are using our applications.

Applications built on personal data could be the next great market. We want to be sure that the next Google, the next Facebook, the next Apple or Microsoft come from the United States. We want to lead the world where it counts—in the utilization of the Internet by all of our citizens.

But this won't happen unless we get a bunch of things right.

Our plan, which we are working on together with the FTC, must ensure that privacy is protected.

I don't pretend that our plan will by itself cut the Gordian knot that has been central to the debate that you all know far better than me and that you have been working on for years.

The question we face is how to articulate the role this issue plays in achieving the Congressional objectives and in that light, advance the debate as far as we can.

I hope you will help us figure out how best to do that.

There are a couple of issues that seem important to note. While there is likely agreement that consumers should control their own data, it is more difficult to figure how that should play out in practice.

You observed in your filing with us that "73% of users do not always read agreements, privacy statements, or other disclaimers before downloading or installing programs," and also that many people "incorrectly believe that the presence of a privacy policy

meant that websites could not sell their address and purchase information."

I suspect that it's true—complex, long so-called privacy policies rarely provide clarity. So we have to ask how best to ensure that consumers have simple, clear ways to understand the ways their personal data is being used, and give them some control over that data even after they've turned it over.

We also need to ensure that government coordinates on an appropriate privacy policy. The FTC, Congress, and the FCC all need to participate in the formulation of a robust policy that ensures consumers have the personal security they need.

The FTC will likely continue taking the lead on general privacy issues and protection of personal data. But the FCC will work closely with the FTC and Internet service providers to ensure protection of personal data across the broadband ecosystem.

In your filing on our Smart Grid public notice, you called for privacy for energy. The filing detailed a number of strategies to ensure privacy, but one that caught my eye was your suggestion to establish an independent organization for privacy oversight.

As you propose it, this office would be responsible for oversight of awareness, training, and audit functions, and would have *quote* "power over all entities associated with Smart Grid."

It strikes me as a fascinating idea—but I wonder if there's a reason to limit it to Smart Grid and energy privacy concerns. Is that sort of idea scalable—to protect and oversee privacy across the whole ecosystem?

We need your help to determine the right strategies for privacy more generally, though—to help us make sure that all Americans

trust the security of their personal data on the Internet, and unlock the full potential of the American broadband ecosystem.

We're looking forward to your feedback. Like I said, with big issues and tight deadlines, we can never get too much help.