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Good morning, Chairman Walden, Ranking Member Eshoo, Members of the Subcommittee. I appreciate your invitation to participate in this discussion today, to share with you my perspectives and, more importantly, to hear yours. I look forward to your counsel as we begin what I believe can be a productive year in tackling the many telecommunications challenges facing Congress, the Commission and the country.

It is my firm belief that broadband is key to America's Twenty-first century prosperity. The President, the Congress, and the Commission are all looking to this communications infrastructure as a key tool for ensuring a better and brighter future for America. Broadband intersects with just about every great challenge confronting our nation today—jobs, international competitiveness, education, energy, health care, overcoming disabilities, news and information and our democratic dialogue. There is no solution for any of these challenges that does not have some broadband component to it. As we as a nation work our way out of today's economic downturn, economic recovery and job creation depend upon all of us having the information tools we need to develop ourselves, find opportunity, and help our nation compete. High-speed Internet access is not a luxury in today's global information economy. It is an absolute necessity.

All Americans—that means everyone—need access to robust and affordable broadband. To help meet our shared broadband goals, the Commission took an important step forward last week toward transforming the Universal Service Fund and Intercarrier compensation systems to meet our going-forward communications infrastructure needs. In the last century, our commitment to Universal Service ensured that most of our citizens—urban and rural—had access to plain old telephone service. We must find a way to do the same nearly-ubiquitous build-out of broadband because all of us benefit when more of us are connected. Private industry must lead the way, of course, but it falls upon policy makers to establish a legal and regulatory environment that encourages broadband deployment, promotes adoption, fosters competition and safeguards consumers. I know we all share the same desire for the United States to continue being the incubator for the ideas, inventions and innovations that drive the global economy.

While we won't all agree on how to proceed on every policy front, there are so many challenges confronting us where you and I share common cause. First and foremost among them is ensuring that our first responders have the communications tools they need to protect American lives and property. As my old boss, Senator Fritz Hollings, used to tell me (more than once I might add), "The safety of the people is the first obligation of the public servant." We are fast approaching the ten-year anniversary of 9/11. While some progress has arguably been made, we are nowhere near where we need to be in creating a nationwide interoperable public safety network. Together I hope

we can make good on an overdue promise to America's first responders to give them the tools they need to protect us. I believe we ***must*** make good on it, in significant and tangible ways, ***this year***.

Another area crying out for our attention is spectrum policy. As consumers expect ever-faster speeds and mobility for their broadband, the demand on our finite spectrum resource skyrockets. Just last week, the President set an ambitious goal of getting high-speed wireless coverage to 98% of Americans. Chairman Genachowski has put laudable emphasis on the country's spectrum needs during his tenure at the FCC. This is another area where we must work hand-in-hand—the Congress, the Commission, industry and all stakeholders—to find ways to make additional spectrum available and to optimize our supply by expanding flexibility in the use of licensees and by improving efficiency through technology. To that end, I have long supported efforts for a spectrum inventory—the FCC's creation of the Spectrum Dashboard is a first step down that road—to examine what spectrum is actually being used, how it is being used, how intensively it is being used, and whether particular slices of spectrum can be put to better use to serve consumers. This spectrum-hungry nation of ours cannot afford to leave wide swaths of valuable airwaves going un- or under-utilized.

There are other challenges calling for action now. I know the issue of online privacy is important to many Members of the Subcommittee, no matter which side of the dais they are sitting on. As Americans share and receive evermore personal and sensitive information online, they become vulnerable in many invasive and costly ways. Here, too, we can work together to ensure that our citizens understand and are able to manage their privacy online.

That leads in to digital literacy, a cause close to my heart. We can do so much, in collaboration with non-governmental players, to make sure that individuals have the digital literacy skills they need to succeed. Our kids, my grandkids, need to understand the online world in which they live. They need the tools to know how to navigate the information available online, and how to discern truth from fiction. And they need to know not just how to use online media, but how these new media forms can use—or misuse—them.

I won't dwell on it here, but I think most Members of this Subcommittee know of my concerns about America's current media environment. A vibrant media landscape—both traditional and online—is critical to providing our citizens with the news and information they need to participate in our democracy. In less than a generation, I have seen a media landscape that should have been moving toward more diversity, more localism and more competition transformed into a market controlled by too few players providing too little accountability journalism. Newsrooms have been shuttered, reporters yanked off the beat and fired, and investigative journalism consigned to the endangered species list. We have lost tens of thousands of newsroom reporters in the United States in the last ten years. One result: when last I checked, twenty-seven states had no full-time reporters accredited to cover Capitol Hill. This crisis in journalism should command the attention of us all because the health of our democracy depends upon it.

So there is much work to be done to ensure everyone in this country has equal opportunity in this new Digital Age—no matter who they are, where they live, or the particular circumstances of their individual lives. I believe that preserving a free and open Internet, the focus of today's hearing, is a central part of that challenge. I know there will be some disagreements among us about this issue, but I think most of you know where I have been on this issue since I arrived at the Commission nearly ten years ago. I have always been open and candid with you, before the Subcommittee and in your personal offices, and candid also with my Commission colleagues, no matter who is in control of Congress or the FCC at any particular time. Most Americans have a broadband monopoly or, at best, duopoly from which to choose. Without adequate competition in the Internet access service market, allowing these companies to exercise unfettered control over Americans' access to the Internet not only creates risks to technological innovation and economic growth, but also poses a real threat to freedom of speech and the future of our democracy. Increasingly our national conversation, our source for news and information, our knowledge of one another, will depend upon the Internet. Our future town square will be paved with broadband bricks and it must be accessible to all.

Certainly companies must be able to exercise reasonable network management to safeguard the security and integrity of their networks. And those management practices will evolve over time. But citizens must have some recourse when they feel they have been discriminated against, and they need an expert venue that can make expert decisions about whether the practices they may complain about are legitimate or not. That's the FCC.

The Internet became a robust engine of economic development by enabling anyone with a good idea to connect to consumers and compete on a level playing field for their business. It meant that entrepreneurs in college dorms and garages, who started out with little more than inspiration, could see their dreams grow into companies that became household names. History has shown us, however, that previous telecommunications and media technologies—radio, TV and cable—conceived in openness, eventually fell victim to consolidation and gatekeeper control that stifled innovation, squashed competition, and ultimately left consumers worse off. I support rules to protect the open Internet not just as a student of history, but also based on real threats. During my tenure at the Commission, we have seen a local phone company that blocked a competitive Voice Over Internet Protocol (VOIP) service. A wireless company censored political speech via text messages. And a cable company created quite a stir by blocking a download of the King James Bible in an indiscriminate and undisclosed manner. Other complaints are pending before the Commission. All this, I would add, when companies are ostensibly on their best behavior in order to avoid new legislation or Commission rules. Read the terms of service consumers get and you will usually find, hidden away in the fine print, a statement of the provider's right to block your service. If ever the path is cleared of some basic oversight, I would count on many more dissatisfied consumers.

This is why I have long advocated for clear rules of the road to maintain openness and freedom on the Internet and to fight discrimination against ideas, content and

technologies. It is why the Commission adopted in 2005, on a bipartisan basis, an *Internet Policy Statement* that contained the basic rights of Internet consumers to access lawful content, run applications and services, attach devices to the network and enjoy the benefits of competition.

This is ***not*** about government regulating the Internet. It is about ensuring that consumers, rather than Big Telephone or Big Cable, have maximum control of their experiences when they go online.

At the same time, however, earlier majorities at the Commission were also moving the transmission component of broadband outside of Title II of our enabling statute. This was a major flip-flop from the historic—and successful—approach of requiring nondiscrimination in our communications networks. What's more, these decisions seriously compromised the Commission's ability to fulfill its statutory responsibilities: protecting public safety, promoting universal service, ensuring disabilities access, fostering competition and safeguarding consumers in the broadband world. Instead of relying on the Title II framework Congress designed for this job, the majority at the FCC moved our broadband authority and oversight to a different part of the statute—the vaguer and more tentative ancillary authority of Title I. It was pursuant to this assertion of ancillary jurisdiction that a federal appeals court ruled against the FCC in the *Comcast* case last year. This put the Commission's fundamental responsibility—to protect consumers of 21st century advanced telecommunications—in serious jeopardy.

Fortunately, at the time the court decision came down, Chairman Genachowski had already launched a proceeding to examine the need for open Internet rules. For my part, I swung my door open wide so that I could hear from every interested stakeholder. I met with broadband providers, online entrepreneurs, technology investors, consumer groups and many individual citizens across the country.

In the end, given that fewer and fewer players are controlling access to the Internet, we needed to make sure that these gatekeepers could not favor their own content, throttle certain types of applications and block access to information at will. With the adoption of the *Open Internet Order* last December, we have at least some concrete rules to prevent gatekeepers from circumventing the openness that made the Internet the Internet and from stifling innovation, investment and job creation.

To be sure, there is more that I would have liked to see in the *Order*. I would have preferred to see, for example, real parity in the treatment of fixed and mobile broadband access. The Internet ***is*** the Internet, no matter how you access it, and the millions of citizens going mobile for their Internet access and the entrepreneurs creating innovative wireless content, applications and services should have the same freedoms and protections as those in the wired context. I recognize there are differences requiring some different treatment as wireless technologies evolve, but I believe our rules can accommodate those differences and the principles should stand.

I have also made no secret that I would have preferred to reassert our Title II authority over broadband. Years of hard-won consumer protections were built upon a Title II foundation. I saw no reason to deviate from what has proven to be a workable framework for both businesses and consumers. After all, this framework gave the communications industry the certainty it needed to do its job of building and managing this nation's great communications enterprises, operating within a public policy framework that gave consumers protections they need and deserve.

As to the Commission's authority, I believe Congress has already given us the authority we need to do our job. No court that I know of has said the FCC cannot do these things. The highest court in the land—the Supreme Court—could not have been more clear in its *Brand X* decision. If there is ambiguity about the meaning of a statute's terms, the Commission's choice of one of them is entitled to deference in the courts. In the Brand X decision, the Supreme Court concluded that the FCC's decision that cable modems were exempt from common carrier oversight was a lawful construction of the statute. But so might another reading of the statute be a legitimate construction. And the same Court went on to say that the Commission is always free to change course if it adequately justifies the change. In any event, the Commission has voted, and now the ball appears to be in the courts and the Congress.

And that brings me full circle back to all the other issues that I hope we will be working together on in the months just ahead. Most of the work of the Commission, as well as most of the work of this Committee, is conducted in an open, bipartisan fashion. From my discussions with Members of this Subcommittee, I sense an intent to work together on deploying broadband and promoting its adoption, enhancing the public's safety and meeting our country's spectrum needs. Congress has given us landmark legislation to bring modern communications to our disabilities communities and the Commission is busy developing rules to implement your charge. Many of us also share an interest to bring modern communications to Indian Country and Native Americans who have been left tragically behind the rest of the country, not to mention the rest of the world. I look forward to working with you on these challenges.

Finally, as I do every time I come up here, I urge you to take action to modify the Closed Meeting Rule which prohibits more than two Commissioners from ever talking with one another at the same time outside of a public meeting. I believe this prohibition has, on many occasions during my time at the Commission, stifled collaborative discussions among colleagues, delayed timely decision-making, and discouraged collegiality. Not to infer we don't all get along wonderfully well, but elected representatives, cabinet officials and judges, to name just a few, all have the opportunity for face-to-face discussions about the issues before them. Each of the five Commissioners brings to the FCC unique experiences and talents that we cannot fully leverage without directly communicating with one another. Last year, now-Ranking Member Eshoo and former Congressman Bart Stupak introduced a well-thought-out bill to eliminate this statutory prohibition. I know there is support on the other side of the aisle for this initiative, in both the House and the Senate. So I truly hope Congress will

finish the job this year. Removal of this prohibition would, in my mind, constitute as major a reform of Commission procedures as any I can contemplate.

Thank you again for the opportunity to be here today. I look forward to your comments, counsel and questions.