

Senate Commerce Committee Chairman John Thune
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Thank you, Jeff, for the warm introduction. AEI’s Center for Internet, Communications, and Technology Policy is doing truly excellent work to advance the public dialogue on communications and technology issues. My staff tells me that the Center’s TechPolicyDaily blog is essential reading. The job you and AEI have done in the year and a half since establishing the Center is impressive, and I’m honored to be speaking here today.

As the new chairman of the Senate Commerce Committee, I have the great privilege and the humbling responsibility of leading one of Congress’s most powerful and far-reaching committees. My colleague John McCain, himself a former Commerce Committee chairman, describes the job as being like “a mosquito in a nudist colony” because of its broad jurisdiction. This Congress, I am looking forward to working with my colleagues to write new rail, aviation, and highway bills, and to remove obstacles for job creators. These are all incredibly important issues, but I’m here today to discuss the important work that lies ahead of Congress in the communications and technology space.

I’ll be the first to admit that, before I became the top Republican on the committee, I wasn’t all that familiar with some of the jargon that most of you speak like a second language – Title II reclassification, Big Data, ‘retrans.’ However, over the last two years I have seen firsthand just how important these policy issues are to everyday life in America and to our nation’s economy.

The last twenty years have seen incredible advancements in computing, telecommunications, and information technology. The United States has been the global epicenter for technological innovation, all of which has been made possible by a robust combination of brilliant entrepreneurs and scientists, world-class universities, massive private-sector capital investment, a culture that rewards risk-taking, and a favorable regulatory environment.

Massive computing power, diverse and self-published content, high-speed Internet access, mobile connectivity, and innovative software platforms. These have all pushed our society and economy forward – creating jobs, empowering individuals, and making the world a smaller place. For all this progress, however, our nation’s communications and technology laws are not keeping pace.

It is a testament to the ingenuity of American businesses that they have been able to adapt and succeed with laws that are increasingly out-of-date. While I do not doubt that they can and will continue to work around the growing shortcomings of our nation’s laws, American industries deserve better from our government. Congress has a responsibility to ensure that our statutes and regulations are appropriately and narrowly tailored for today’s economy and for the future.

From telecom regulations to cybersecurity, from Internet governance to spectrum policy, there is a lot of work that can and must be done to modernize our laws. Voters in November entrusted

Republicans with control of the Congress. They expect us to break the partisan gridlock and get Congress back to working for the American people. My colleagues and I intend to do exactly that. We are wasting no time in tackling these important issues. Indeed, House Energy & Commerce Committee Chairman Fred Upton, House Communications Subcommittee Chairman Greg Walden, and I have begun the new Congress with a process to find a legislative solution to a problem that has vexed policymakers for more than a decade – how best to protect the open Internet.

Twice the Federal Communications Commission (FCC) has tried to put in place industry-wide open Internet rules, and twice the courts found those efforts to be unsupported by the law. Today, with a determined and self-confident FCC chairman being pushed by an increasingly imperious President, we find the FCC on the brink of upending the wildly successful “light touch” regulatory framework first put in place during the Clinton Administration. In addition to being a poor policy solution, reclassification and the subsequent forbearance process will certainly be vigorously litigated and will very likely be found unlawful, at least in part.

Why is the FCC on this desperate path? Because FCC Chairman Tom Wheeler wants to have open Internet rules in place, and in order to do that, he feels he has no other choice than to completely reverse the FCC’s policy on Internet regulation. A policy that the FCC, with support from the Department of Justice, successfully defended before the Supreme Court in 2005.

This is simply another consequence of having outdated laws on the books that are ill-suited for today’s digital marketplace. Rather than having the FCC go down this dangerous road, littered with regulatory uncertainty and likely unintended consequences, Congress should reassert its prerogative to make policy.

I’ll be the first to tell you that I have long been skeptical that the Internet needs more government intervention to preserve its openness. The legal and regulatory uncertainty about what the FCC can and will do, however, has become a major problem for people both at the edge of the Internet and at its core. Congress, however, is the only entity that can settle this uncertainty, and I believe we can do so in a way that will empower the FCC with the strong tools many believe are needed to protect the Internet while simultaneously ensuring the agency is appropriately limited in its reach and authority.

If the FCC is allowed to reclassify broadband as a public-utility under Title II of the Communications Act of 1934, it will have unlimited ability to regulate any and every aspect of the Internet ecosystem, especially when combined with its newly reinterpreted section 706 authority. We have heard serious concerns from broadband providers and Internet companies alike about this boundless regulatory reach, which was never intended by Congress.

Indeed, at our committee’s hearing last week, Paul Misener, Amazon’s head of global public policy, said that he shares the concerns about what reclassification could create, and would welcome Congress establishing limits on the FCC’s authority. The draft bill that I put forward with my House colleagues would do exactly that. As Mr. Misener said of the draft, “the brilliance of it is to establish really strong... excellent principles, but with a cap, a ceiling on top.” He further testified: “if [policymakers] are able to work within this framework of deciding

what principles are there, but also tell the agency not to overreach, that seems like the best way to balance this and provide the certainty to companies like [his] that need it.”

I am committed to working with my colleagues on both sides of the aisle and in both chambers to establish clear, updated, and reasonable rules of the digital road to protect an open Internet. Last week’s hearing is simply the beginning of this public effort, and the committee will continue to engage stakeholders on all sides of this issue.

Finding a legislative solution to keep the Internet free from ISP (“Internet service provider”) and government meddling is a top priority for me, but it is not the only issue that I want to tackle early this year. My colleagues on the House Energy & Commerce Committee last year started a process to consider an update to the Communications Act, and from my conversations with them, I expect them to hit the ground running early this year. In the coming months, I intend to begin a parallel effort in the Senate Commerce Committee to explore which of our telecom laws need to be modernized and how best to do so.

Updating the Communications Act is no small undertaking, but it would be a dereliction of duty if Congress did not at least try to modernize the law. According to my former colleague John Kerry, the last significant update to the Communications Act, the Telecommunications Act of 1996, was “obsolete” within six months of enactment because it didn’t take the Internet into account. With the FCC poised to reclassify broadband due to a lack of clear statutory authority, we can readily see the consequences of that obsolescence and the need for action.

The ‘how’ of updating the Act will be determined by ‘what’ needs to be done. Perhaps the committee will produce an omnibus reform bill similar to the 1996 Telecom Act. Or maybe we will break things into smaller, issue-specific items that may be easier to manage and advance. It is too early to say what the final product of this modernization effort might look like, but I will be results-oriented and will work with my colleagues to search out the best path to enacting as many productive reforms as are possible this Congress. I know AEI’s many scholars have given a great deal of thought to this, and I would welcome their input and ideas.

There are a number of policy areas that the committee will investigate. For instance, the IP transition, interconnection, and universal service are closely related issues that need attention, and will certainly be examined as part of any effort to update the Communications Act.

Spectrum policy is one area that has the potential for bipartisan consensus and Congressional collaboration with the White House. I think everyone was surprised to see just how successful the AWS-3 auction has been. Forty-five billion dollars is a lot of money, even in Washington D.C., and it illustrates the incredible demand for wireless spectrum, which is needed to fuel the mobile revolution. But private sector users are not the only ones who rely upon spectrum; government users have important spectrum needs too.

We need to increase the availability of spectrum for commercial use, both licensed and unlicensed, as quickly as possible. But I want D.C. to move away from the ad hoc, one-band-at-a-time mindset that has characterized our country’s approach to spectrum policy for too long.

We need to find ways to better align the interests of both government and private sector spectrum users. There is tremendous need and opportunity to increase federal agencies' wireless capabilities while simultaneously improving their spectrum efficiency. By introducing more market-based forces into federal spectrum management, we may be able to ensure federal users have access to the spectrum they need while also incentivizing them to relinquish the spectrum they don't need.

Part of the challenge will be finding ways to get government agencies and private companies to play nicer with each other. Both like having distinct frequencies to themselves, but they need to start getting used to living much closer to each other—think rowhouses and condo buildings rather than sprawling, spread-out suburbs.

We will need to use every tool available to get the most possible out of the current spectrum map – auctions, relocations, shared use and exclusive use, licensed and unlicensed, new technologies, and new methods of spectrum management. I agree wholeheartedly with White House officials Jason Furman and Megan Smith who said last week in the Wall Street Journal that we need to take an “all-of-the-above approach to making more spectrum available.”

Another topic that is ripe for review is how the FCC operates and is structured. The last time Congress reauthorized the FCC was in 1990 – the oldest expired authorization in the Commerce Committee's jurisdiction. Senator Dean Heller has already begun thinking about this issue, having worked on two process reform bills over the last few years. I would like to build on his work and see if we can get Congress back in the habit of regularly reauthorizing the Commission.

As part of our Communications Act update efforts, we will also focus on video policy. The laws governing broadcast television are great examples of how old laws can calcify and eventually undermine their original intent. Last year, I worked with then-Chairman Jay Rockefeller to partner on a groundbreaking proposal known as Local Choice. Our goal was to put more choice in the hands of consumers, while ensuring that local broadcasters are compensated for the full value of the great content they provide. Our proposal was set aside in the interest of passing a reauthorization of satellite TV laws before their expiration, but I remain committed to exploring updates to our video laws that more accurately reflect how Americans consume video content today.

Having the right laws in place for today's digital marketplace means more than just updating the Communications Act, however. We need to come up with new, market-based ideas on how the government can assist in closing the digital divide that keeps many people in rural and disadvantaged communities from enjoying all the benefits of a connected life. For instance, in my state of South Dakota, we have some of the best fixed broadband infrastructure in the country, but we definitely lag behind in wireless deployment, investment, and competition. The digital divide, however, is more often than not a question of adoption, not of adequate broadband deployment.

Too often policymakers are content just to throw taxpayer dollars at these kinds of problems and hope they go away. Our rural and disadvantaged communities deserve better ideas than that.

We can do better, and I hope we can work across party lines to find creative ways to improve broadband adoption and deployment in this country, particularly by highlighting and facilitating innovative approaches at the state and local levels. Our nation's vast diversity – geographic, political, and demographic – is both a tremendous challenge and a blessed resource. Modern communications technologies are empowering civic and economic growth in unprecedented ways, and we must cultivate the spirit of enterprise that uniquely defines America.

Cybersecurity is another issue where bipartisan collaboration should be possible. Earlier this month, the President sent a legislative proposal to Congress to address the sharing of cyber threat information and create a uniform national standard for notifying affected consumers after a data breach. I welcome the President back to the discussion on cybersecurity. Frankly, his personal engagement on legislation would have helped advance the bipartisan cybersecurity information sharing bill authored last Congress by Senators Feinstein and Chambliss. Despite bipartisan approval at the committee level, Senate Democratic Leadership refused to give that bill a vote on the Senate floor. I'm confident that Republican Leadership won't shy away from such a vote.

The Commerce Committee has already shown the way on this sometimes contentious issue. Last Congress, I cosponsored legislation with Jay Rockefeller that became law in December. Our bill will improve coordination of cyber research and development across the federal government and ensure that the Commerce Department's National Institute of Standards and Technology continues to collaborate with the private sector to develop voluntary, industry-led cybersecurity standards and best practices. This Congress, our committee will seek to tackle the data breach notification issues that have hamstrung Congress for far too long.

Beyond just legislation, there is much oversight that Congress and my committee must do in the technology and communications space. For instance, I am keeping a very close eye on the issue of Internet governance. Last year the Administration announced it wants to give up oversight of ICANN and the IANA contract. If this transition is going to happen, it has to be done very carefully. We have to focus on ensuring that the Internet will remain open, stable, and secure. Russia, China, and the United Nations have all been trying for years to exert more control over the Internet, and we cannot let this process be hijacked by these regimes.

I have been working with Senator Marco Rubio to hold the Administration accountable to its promises and to urge ICANN to implement accountability reforms as part of the IANA transition process. If these goals cannot be met, the Administration should simply renew the IANA contract indefinitely. Keeping the Internet open and free from control by foreign governments is very important to my Republican colleagues, all of whom last year called for a hearing on this topic. At some point after ICANN's February meeting in Singapore, I expect to hold a hearing with Department of Commerce Assistant Secretary Larry Strickling and ICANN CEO Fadi Chahade to discuss the status of the proposed IANA transition.

Keeping open the avenues for digital trade around the world is another area where there is a lot of bipartisan consensus. Last Congress, I introduced the Digital Trade Act, which would make the protection and promotion of digital trade a top negotiating priority for future trade deals. I was pleased that the major elements of my legislation were included last year in the Senate Finance Committee's Trade Promotion Authority bill. Just as we have long fought against

protectionist barriers that harm American manufacturing and exports, we now need to ensure that digital protectionism does not lead to the balkanization of the Internet. We risk segregating parts of the world from the global network of networks and creating second-class netizens who might not fully benefit from the power of the Internet.

I am working with Senate Finance Committee Chairman Orrin Hatch and his ranking member, Senator Ron Wyden, to see these ideas advanced as part of this year's Trade Promotion Authority (TPA) legislation. I am optimistic that most elements of my bill will once again be included as part of TPA, and I look forward to finally pushing a TPA extension through to enactment. I am also eager to continue my work to make the moratorium on Internet access taxes permanent, and I expect to reintroduce the Internet Tax Freedom Forever Act with Senator Wyden in the coming weeks.

When it comes to the digital economy, the United States is unquestionably the envy of the world. But we cannot get complacent. Countries like China are seeing massive startups that may soon compete on American soil with our biggest technology companies. Other countries look at our dominance in 4G wireless networks and are already planning to leapfrog us with 5G. Policymakers must be as nimble as our world-class businesses and our foreign competitors.

We can continue to get by with aged technology laws and regulations, but Congress should strive to do better. I look forward to engaging *all* of my colleagues on the Commerce Committee and throughout the Senate to work on ensuring our nation's laws are as forward-looking as our nation's innovators and entrepreneurs. I am willing to put in the hard work necessary to do what is needed, and I know many of my colleagues feel the same way. If we can find enough willing partners to work with, I think 2015 is going to be a big year for tech policy.

Thank you.