

TESTIMONY OF MICHAEL K. POWELL
PRESIDENT AND CEO
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION
on
THE STATE OF VIDEO
before the
Subcommittee on Communications, Technology, and the Internet
Committee on Commerce, Science and Transportation
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Good morning Mr. Chairman and Members of the Subcommittee. My name is Michael Powell and I am the President and Chief Executive Officer of the National Cable & Telecommunications Association. Thank you for inviting me today to testify on the state of video. We welcome this important hearing.

Cable Always Has Been an Innovative Force in Video

From its beginning, cable has driven innovation and transformation in the video business. Cable was founded to make broadcasting better – bringing it to suburban and rural areas outside the reach of over-the-air reception. We made programming better – breaking the lock of the three channel universe by investing billions in original content that appeals to specialized audiences as well as the mass market, and building award-winning iconic brands like CNN, ESPN, HBO, CNBC, C-SPAN, History and Discovery. We were first to unshackle consumers from “appointment TV” with video on demand and the wide deployment of DVRs.

When we turned to areas other than video, the results were similar. In 1996, Congress wanted telephone competition and cable delivered it. Today, one in three households that have wireline phone service receive it from a cable operator.

And then there is broadband. Where high-speed data service was once the purview only of businesses, cable operators brought broadband Internet service to residential subscribers. This was not serendipity. The industry borrowed heavily and took enormous risk by ripping out its one-way analog network and replacing it with a higher capacity, two-way digital platform that made broadband possible. Cable broadband speeds have increased at a 50 percent annual rate^{1/} since being introduced in 1996 and are projected to continue on that arc for the foreseeable

^{1/} *ARRIS Group Inc. 2012 Investor & Analyst Conference, Aug. 8, 2012, slide 29, available at <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9NDc2MTUwfENoaWxkSUQ9NTA4NTk3fFR5cGU9MQ==&t=1>.*

future. Cable operators have also extended the reach of their broadband service through extensive Wi-Fi networks, offering more than 150,000 hotspots at present and that figure has been growing rapidly. To put that footprint in perspective, AT&T's Wi-Fi network, which can be found in Starbucks®, McDonald's®, Barnes & Noble, FedEx offices and other locations, includes 32,000 hotspots.^{2/} All of that in turn has enabled consumers to receive high-quality video over the Internet and on mobile devices.

Today's Golden Age of Video

From the consumer's standpoint, the state of video has never been stronger. Consumers today enjoy (1) more content, (2) higher quality programs, (3) more variety and diversity in video content, (4) more sources for video content, offering different types of content in a variety of packages and at a variety of price points, (5) a greatly enhanced capacity to select, manipulate and record video content; and (6) the ability to access video on an increasingly wider range of devices.

There are hundreds of video programming networks, presented in brilliant HD quality. This is an enormous expansion from just 20 years ago. Artists and creators are producing some of the most compelling programs ever and cable is their preferred palette. In the most recent award seasons, cable programming won 10 of the 11 TV Golden Globes and 57 percent of Primetime Emmys. Acclaimed series such as "Game of Thrones," "Breaking Bad," and "Homeland" are some of the most accomplished dramas ever.

Public policy has always been concerned about diversity of viewpoints and niche programs for smaller yet passionate audiences. The cable model brought that ambition to fruition. The cable dial runs the gamut – from compelling scripted dramas, situation comedies,

^{2/} See AT&T Wi-Fi Hotspots, AT&T, <http://www.att.com/shop/wireless/wifi.html#fbid=xu0RiNIAQ3F>.

educational content, and kids programming, to sports, cooking shows, and news and public affairs. Simply put, if you fish, cook, workout, love music, crave sports, gorge on politics, admire dance, have a thing for duck hunting, or want programming in your native language or reflective of your community, you will find it on cable.

If you are itching to watch video, the number of sources you can turn to has grown exponentially as different providers compete for your business. You may subscribe to cable television and get 150 or more HD channels, the latest premium content and live events, video on demand and the ability to record and watch at your convenience on a DVR. You can get a very similar experience from DIRECTV and Dish. In many markets, you can also choose service from AT&T U-verse, Verizon FiOS, or CenturyLink's nascent Prism TV. And Google Fiber is expanding to more cities.

Cable also is working to bring better video experiences to consumers wherever and whenever they want, offering, for example, applications that allow subscribers to watch their cable service on their iPads. Cable's "TV Everywhere" initiative makes it possible for our customers to watch video content they have already paid for on their laptops, tablets, smartphones and other portable devices – no matter where they are. And many cable networks allow viewers to access their programming outside their multichannel video programming distributor ("MVPD") subscription. Sprint, for example, offers its mobile subscribers access to a wide variety of popular full-length video programs from networks like MTV, Nickelodeon, Comedy Central, Style, Discovery Channel and many more.

If that were not exciting enough, Internet-delivered video has ushered in an even greater explosion of choice. By one estimate, real-time video streaming represents 65.2 percent of

downstream Internet traffic in North America during prime time evening hours.^{3/} The U.S. online video market attracts an average of 75 million viewers every day and streams nearly 40 billion videos per month.^{4/} Revenue from video content delivered over the Internet to televisions “is expected to grow from \$2 billion in 2009 to over \$17 billion in 2014.”^{5/} The largest subscription video provider in the country today is Netflix — not Comcast, Time Warner Cable, DIRECTV or any other MVPD.

If market failure is characterized by a lack of new entry, there is clearly no failure in the video marketplace. Companies that stream content are proliferating: Netflix, Hulu, Amazon, iTunes, CinemaNow, Network websites, HBOGo, Apple TV, and user-generated or special interest sites like YouTube, Vimeo, and TED.com are a few. In fact, YouTube recently announced a subscription video service.^{6/} Some of these services offer multichannel programming like an MVPD; others specialize in entertainment programming, movies, or on-demand content. With their smaller array of programming and emphasis on older content, they generally offer consumers a lower priced option than cable and other MVPDs. And many more offerings are anticipated from the likes of Intel and Sony.

And web video is not limited to a PC screen any more. Analysis of data from Nielsen suggests that 65 percent of Netflix streaming is viewed on television sets.^{7/} Computers can connect to big screen televisions; content can be beamed to sets using functions like Apple Airplay; box companies like Roku, TiVo and Boxee can deliver web video to the TV set; and

^{3/} *Global Internet Phenomena Spotlight 2H 2012 North America, Fixed Access*, SANDVINE INCORPORATED, Nov. 6, 2012.

^{4/} *US Digital Future in Focus*, COMSCORE (Feb. 2012).

^{5/} U.S. Dep’t of Justice, Competitive Impact Statement, *United States v. Comcast Corp.*, No. 1:11-cv-00106 (D.D.C. Jan. 18, 2011), available at <http://www.justice.gov/atr/cases/f266100/266158.htm>.

^{6/} *New Ways to Support Great Content on YouTube*, YOUTUBE (May 9, 2013), <http://youtube-global.blogspot.com/>.

^{7/} NCTA analysis of data from *The Cross-Platform Report*, Quarter 2, 2012-US, NIELSEN (Nov 2012).

manufacturers like Samsung are making the Flat Panel TV web enabled, with apps incorporated for accessing video content. One study estimates that at least 44 percent of U.S. households have a television set connected to the Internet, through an Internet-ready TV, game console, standalone Blu-ray player or smart set-top box connected to their home network.^{8/} Smartphones and iPads have proliferated as compelling devices for consuming video content and enjoying second-screen experiences. Of note, when measured together, the share of all hours spent watching streaming video on tablets and mobile phones increased 100 percent in 2012.^{9/}

For some consumers, online video offerings are good enough to cut or shave the cord. According to one report, “3.74 million (3.7%) US TV subscribers cut their TV subscriptions 2008-12 to rely solely on” online video and over-the-air for their video entertainment.^{10/} Yet for most consumers, online video has developed as a supplement to their broadly diverse MVPD service. It enables them to add even more of a particular type of video content – whether it be movies or music – to the live events and new programming available from the MVPD. There are still millions of new customers subscribing to our service for the first time – or returning to us – because of the HD, on-demand, multi-screen and other advanced video offerings we make available.

As always, the cable industry is responding to changes in technology and in the marketplace in order to stay ahead of the curve and provide leading-edge services to its subscribers. The opportunities presented by broadband are great. While there are some challenges – any network that is shared by many users must cope with congestion and ensure all

^{8/} Over Half of Adults Watch Video on Non-TV Devices Weekly, LEICHTMAN RESEARCH GROUP, INC. (May 2, 2013), available at <http://www.leichtmanresearch.com/press/050213release.html>

^{9/} *Global Video Index, 2012 Year in Review*, Ooyala, available at <http://go.ooyala.com/rs/OOYALA/images/Ooyala-Global-Video-Index-Q4-2012.pdf>.

^{10/} *The Battle for the American Couch Potato: Online & Traditional TV and Movie Distribution*, The Convergence Consulting Group Ltd. (Apr. 2013), available at <http://convergenceonline.com/downloads/USNewContent2013.pdf>.

users get quality service – we continue to see great potential in our networks. We are investing billions annually to ensure that this potential can be realized by keeping pace with the dynamic marketplace and consumers’ changing needs and interests.

Cable’s business incentives in today’s marketplace are fully aligned with the interests of consumers. The path to continued growth for cable is to enhance and expand its customers’ use and enjoyment of the broadband platform we offer. If consumers want to access video content via their laptop, their Xbox, their iPad, or their mobile device, it’s our job to make that possible for them. If they want to obtain video content from Netflix, Amazon, Hulu, YouTube, Apple or any other online provider, it’s our business to make that possible as well and we are. Cable has a strong broadband business and benefits from greater Internet consumption generated by streaming video services. So while cable operators are developing new services and features that enable their subscribers to access video online and on-the-go, they are also ensuring that other providers of content, services or devices in the online video ecosystem can flourish.

The Future of Video

Gazing into the distance through the eyes of consumers, the future of video shines extraordinarily bright. It will be a great time to be a TV lover. John Malone once talked of a future of 500 channels, but tomorrow’s reality will be exponentially greater. The Internet has opened a floodgate to new content creation, produced by individuals and top network studios alike. Combined with the continually expanding traditional television sources, consumers will be swimming in content choices. The expansion of distribution platforms is also fueling a continuing renaissance of creative work. Anyone with a story idea has the venue and the tools to produce compelling video narratives.

Importantly, the video renaissance is expanding the diversity of content. Diverse communities are finding greater voice. Every genre imaginable is being explored. Top studios are producing award winning long form series. News is being revolutionized. Video is rapidly becoming the central force in all of electronic media and will only grow.

Where will we watch video? Everywhere humans dwell. The ubiquity of broadband networks and devices that connect to the Internet mean content will envelope consumers. The living rooms and family dens will still matter, but video experiences will not be tethered to our walls. Portable screens will only further burrow into our lives. Cable's investment in interoperable Wi-Fi networks will provide consumers with unprecedented levels of portability and flexibility for consuming video and other broadband service offerings.

This ever-present second screen will unleash a plethora of interactive applications that give television a new dimension that never existed before. Live stats during the game, user-controlled camera angles, and social conversation embedded in programming are just a few ways the experience will grow. Additionally, the "TV" will increasingly become personal. Channel guides will be personal to the user. Program line-ups and recording preferences may change for different viewers. This personally tailored-experience is well in motion.

In this world of bottomless content and near endless choice, curating content well will be more valuable, not less. Meaningfully combining programming into useful groupings will be important for simplifying the viewing experience. Technology will play a bigger role, too, empowering recommendation engines and crowd sourcing to bring relevant content to the consumer. A good content editor remains essential. As Reed Hastings recently explained,

Netflix is “actively curating our service rather than carrying as many titles as we can” so they can “have the best [content] in each category rather than the most”^{11/}

In this exciting new world, we believe private platforms – like cable and DBS – will peacefully coexist with the public Internet platform. Among other reasons, the private platforms are more highly optimized for quality and reliability and deliver video content more efficiently than the public Internet. Additionally, the continuous challenges of piracy, malware and cyber-threats on the public web will keep the value of private platforms high. Most importantly, the cable model is critically important for monetizing and delivering the highest premium content to consumers – including sports, live news, and premium series. Indeed, without cable subscribers paying to watch shows like “Mad Men,” those shows would never even be available to run later through online services.

This is an exciting future, and cable is working to be an important part of it. Cable companies have been rapidly exporting the viewing experience to iPads and other portable devices to let consumers watch our services on any device they choose. Programming guides are being redesigned by many companies to provide richer and more personal experiences. Smartphone apps are being deployed to replace remote controls. And cable companies continue to empower consumer choice with on demand viewing and advanced DVRs that allow you to watch what you want when you want.

We also are working to de-clutter the home of set-top boxes. The marketplace of the future is apt to move from being hardware-centric to software-centric, which will accelerate the pace of innovation and adaptation to new features and capabilities. A vast array of cloud-based services and applications will make available a new generation of interactive offerings, and

^{11/} Reed Hasting, *Long Term View*, NETFLIX (Apr. 25, 2013), available at <http://ir.netflix.com/long-term-view.cfm>.

dissolve the lines between video, data, graphics, voice, and text. Today, set-top box-based services cannot be deployed until the boxes are tested and glitch-free; by contrast, software-based services can be released more rapidly and upgraded more easily. Cable companies have also been working constructively with services like Roku and Xbox to integrate cable video services into those platforms – allowing consumers to consolidate boxes and integrate their cable services with online services.

Importantly, all of the innovation that is taking place to bring both today’s and tomorrow’s advanced services is occurring and continues to occur with only limited regulatory intervention. Cable, satellite, phone, and online video providers are competing in the arena that benefits consumers –the marketplace – and not before this Committee or the FCC. The cable industry is prepared to meet the future in that arena.

What is the Role for Policymakers?

The future looks bright, but a natural question for this Committee is what type of regulatory framework will best promote consumer choice. Do you need to take action to preserve and strengthen the incentives of programmers and distributors to invest aggressively to bring new services, features and capabilities to consumers? I think the answer is generally no, at least not right now. While some surgical changes to the law may be appropriate, a broad “rewrite” is not necessary and could even be counterproductive by introducing uncertainty and displacing or skewing the marketplace rivalries that are providing today’s consumers with the unparalleled choice I described earlier.

There is no doubt that the transformation underway will not be problem-free. It will be chaotic at times as consumer expectations and demands outpace changes in the underlying marketplace. As market participants seek to realign their business strategies with the new reality,

many questions of law and policy may arise. In this dynamic market, it is difficult to know what type of statutory or regulatory changes will promote rather than hinder competition and investment. For that reason, it is better to exercise caution rather than rush to rewrite laws that will, in any event, be obsolete almost as soon as they are enacted.

As the new video market develops, there may be limited, targeted changes to the Act that are appropriate to address specific issues that arise – and the FCC should have the tools it needs to adjust its rules as the market changes – but the basic framework of the Act can remain in place throughout this transition period, without causing any delay or hindrance to the exciting changes that are occurring in the video marketplace. The time may come when adjustments to the current law can no longer suffice, but that time is not now.

Thank you again for the opportunity to appear today. Cable is proud of the products and services it offers customers today and is excited about the dynamic future before us. We look forward to being a key player in this vibrant marketplace.