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On

THE STATE OF THE TELEVISION AND VIDEO MARKETPLACE

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Good morning Mr. Chairman and members of the Committee. My name is Michael Powell and I am the President and CEO of the NCTA – The Internet & Television Association. NCTA is the principal trade association for the U.S. cable industry. Our members include the nation's largest providers of high-speed Internet and video service, as well as more than 200 cable program networks. We welcome this important hearing and I am pleased to be here today to discuss the state of the video marketplace.

Today's video marketplace is extraordinary. It is the latest installment of a multi-episode story on the evolution of television. Each chapter has been propelled by new game-changing advances in technology. With new capability, each phase produced more competitive choice, creative strides in storytelling, news and information, and educational content. And, consumers were treated to fresh, innovative experiences. It is a really good story, and one can only imagine what comes next.

Episode One
"Up in the Air"

Episode One begins with the invention of television itself and broadcasting. Sending moving visual images over the air to people's homes was magical. The government and broadcasters advanced the medium through a partnership in which the public provided the use of its airwaves, and in exchange broadcasters provided free service to the public and promised to produce programming that served the "public interest." This social compact was the original foundation of television public policy. As a free service, TV commercials were the heart of the broadcaster business model. It was a one-to-many medium that broadcast one show, to all viewers, at the same time. But it was also limited by the vagaries of physics and long dominated by just three major networks. Still, for many years, it served as the nation's community hearth for news, information, education, sports and entertainment. Today, it still offers popular content, though now largely viewed on pay-tv systems. Only 13% of the public watch TV exclusively over the air.

Episode Two
"The Wire"

In Episode Two, the magic of television was extended and transformed with the invention of cable and the rise of satellite delivered programing. Cable brought content directly to the home by wire—improving quality and reaching consumers who could not get a broadcast signal over the air. The large channel capacity of the system, aided by satellite delivery, provided the real estate for dramatically expanding programming. Building on that capacity, cable invented entirely new forms of television, producing greater diversity and variety for viewers.

Each channel could appeal to distinct consumer interests. CNN became the first 24-hour news network. ESPN was created to cover sports. History channels, cooking channels and children's channels proliferated on the dial. The number of networks ballooned from 11 cable networks in 1980 to over 900 today. Cable also launched the first on-demand programming and is credited with the widespread use of DVRs, giving consumers powerful tools that encouraged time-shifting and content control. Cable eventually became the primary platform for television viewing. At its peak in 2001, it served 67 million homes with multichannel video programming service. Cable was privately financed and adopted a subscription business model. Most cable regulation was focused on checking cable's commanding market position and protecting the over-the-air broadcasting service, a policy prescription that has disappeared in the face of a healthier and more vigorous marketplace.

The multichannel video world attracted new entrants, delivering the first onslaught of MVPD competition. The DBS industry entered using satellites to deliver high quality, digital content directly to the home. From space, it could also reach remote rural communities. DBS took market share from cable, and now commands 32 percent of the market. Following the 1996 Act, telephone companies also entered the MVPD market bringing more rivalry to the space. The result was growing competition, delivering more choice for consumers. Of the top six traditional MVPDs in today's market, four are not cable companies. Among the top five of all video subscription services, only one is a cable company, with streaming companies Netflix, Amazon and Hulu holding the top three spots.

Episode Three
"Bits Byte T.V."

The Internet has revolutionized everything in our society, and it is no surprise that it has upended the television universe. When digitized, any kind of content can go over the Internet. Video takes up a lot of broadband capacity (in the U.S., an estimated 80% of total Internet traffic is video traffic), and it took time for last mile networks to be capable of handling the massive load of streaming video services. In large measure due to the investment of the cable industry in broadband, that moment arrived with a bang. Today, the Internet has completely transformed the underpinnings of the television/video marketplace, creating a world of robust competition, constant innovation, and significant changes in consumer experiences and preferences. The key driving changes are worth highlighting.

- A TV provider no longer needs to own a distribution infrastructure to provide a video service. In the past, distribution was the defining attribute in the TV value chain. You had to have a distribution partner with physical infrastructure (a broadcast licensee or cable franchisee) to reach customers. Now content services can proliferate freely over the public Internet.

- Removing distribution as a barrier to entry, new video and content providers have flooded into the video space. The largest video providers today are not traditional MVPDs, they are streaming services that did not even exist in 2006. Netflix has 60 million domestic subs. Amazon is estimated to have 40 million users of its Prime video service, and Hulu recently announced that it has 28 million users. Traditional MVPDs like Comcast, DISH, and DirecTV are also seeking to give Internet only customers new options to receive traditional program lineups. And still others are emerging on the horizon, such as Apple TV, YouTube TV, Pluto TV, CBS All Access and Disney +.

- With the rising wave of Internet delivery, the television set has been dethroned as the only viewing device. Video apps have allowed viewing on any device that can connect to the Internet. iPads, laptops, cell phones, smart TVs, Roku boxes and almost anything with glass and an Internet port all are television sets now. The adage anytime, anywhere on any device is now genuine and almost cliché.

- As video service and devices have expanded, the amount of video content has soared. In 2002 there were 182 original scripted shows, in 2018 there were 495. The quality of that programming also has been dramatically elevated, with more and more buyers chasing the best writers, directors and actors to produce compelling original shows.

- Consumer viewing experiences have also dramatically changed. Interactivity and data have allowed the unprecedented ability to tailor the video experience to individual interests. Netflix and others can now recommend shows to suit individual preferences. YouTube can merge both professional content with user-generated content and incorporate commentary. Twitter can include video clips to illuminate stories. One can expect more and more innovation, personalization and interactive viewing experiences in the future. The TV experience has been completely re-imagined around new consumer habits: Today full series are released at once, allowing for binge watching. Binging is helped along by auto-running the next episode. More programming is available without advertising, and shows are available on demand whenever and wherever you want to watch. These changes are essential to keep pace with new generations of TV audiences.

- It is also worth noting that the Internet has supplanted many of the functions TV alone once served in offering access to different content sources. Gathering information and searching for educational content for example. Kids largely consume Internet-based content. And the Internet has spawned other ways to bide one's leisure time such as gaming, Facebook, Instagram, online shopping, and Snapchat. A TV provider today not only has to compete with other TV companies, it must compete for your time and attention with these other forms of distraction. This new dynamic is particularly evident in the 18-34 demographic. Nielsen estimates that 18 to 34-year-olds spend 34% of their media consumption time using a smartphone and only 22% of their time viewing live or time-shifted TV.

The sum effect of the Internet TV era is monumental. It has enhanced traditional services, spawned the creation of new products, and opened the doors wide to a dizzying array of competitors, pursuing countless new approaches for entertaining and informing us. We are awash with content of every genre, to satisfy every conceivable preference. And every company is grappling with the disorienting and fast changes that are twisting with creative destruction. It is hard to know who the corporate winners will be when the dust settles, but the mega winner is certainly the consumer.

CABLE
To Paraphrase Mark Twain
"Reports of Our Death are Greatly Exaggerated"

The cable industry has certainly felt the enormous pressures of this new television age. Its historical dominance in the Pay TV marketplace has receded as distributors have lost market share to other traditional MVPD services and as the market itself has changed with the rise of Internet-delivered video sources. Cable and traditional MVPDs now face the daunting competitive challenge of cord-cutting, cord-shaving and cord-nevers. Competition for top programming is fierce, and the rising costs of securing and carrying content has squeezed the profitability of cable's video businesses. Despite the challenges, the industry is adapting and responding.

Cable continues to be an important presence in the video market and has taken major steps to hold and increase the value of its service to consumers. Cable still provides video service to **50 million** homes and continues to invest in new products and services that extend the video experience well beyond linear viewing. The industry has invested heavily in improving user experiences. Such efforts include voice remote controls for navigation, cloud DVRs, Apps that allow you to watch your cable service on any device, and the ability to download content on the go. The industry has also embraced the new streaming services, with a number of companies providing access through the set-top box to Netflix, YouTube and Amazon Prime.

Such innovations do not stop with video. Indeed, the industry continues to push forward with improvements to broadband connectivity that themselves serve as the foundation for new video experiences. Just recently, cable successfully upgraded its infrastructure to support Gigabit Internet to 93 percent of the homes passed by cable networks. And, not content to rest on its laurels, the cable industry has announced a bold 10G initiative to bring 10 gig to its customers in the next few years. Additionally, cable companies are offering wireless service, and WIFI access in their territories.

Cable video certainly faces disruption and more vigorous competition, but it is rising to the challenge, moving effectively to innovate and increase consumer value that will secure our industry's participation in the video marketplace for years to come.

Making the Laws
What is a Policymaker to Do?

While today's hearing is focused on better understanding the current video marketplace and not specific legislative reforms, there are some simple take-aways that are relevant to policymakers given the transformative changes we are witnessing. These principles can guide how we think about policy questions as we continue forward.

First, it is clearer than ever that the technical, economic, and market predicates on which our video laws are based have crumbled. Since the passage of the 1992 Cable Act, cable is no longer the dominant video provider. Then it had 98 percent of homes and today it has 56 percent. It has less control over programming than it once had. Then cable had an ownership stake in 53 percent of content on its systems, today only 9 percent is vertically integrated. And cable faces much stiffer competition from more quarters than it did when the Cable Act was passed. Without the factual predicate of a cable dominant monopoly, the infirmities in many of the current rules premised on cable's 'bottleneck control' of video distribution are patent and obvious.

Second, many of the video laws apply incoherently to some industry groups and not others. For example, program access, must buy and leased access rules apply to cable but not to satellite service. And, almost none of today's video rules apply to streaming services like Netflix and Amazon Prime, despite their large number of subscribers and leading market positions. Wrestling to create greater parity, consistency and overall regulatory harmony will be essential.

Third, we should encourage the FCC and this body to clear away dated regulatory underbrush that no longer has value or has lost its relevance in this current dynamic age. We support the FCC's efforts to review and reinterpret Title VI as it seeks to adapt old laws to present realities. At some point, policymakers have to recognize that fair competition can only be advanced when obligations are appropriately matched to the free-wheeling competitive bazaar of today, and not the mythology of a world from almost 30 years ago.

Fourth, we collectively must consider how to reaffirm and preserve critical social values that have long been a part of television policy. The issues of diversity of voices, protection of children, trusted news and information sources, and respect for the First Amendment remain important and enduring.

Thank you and I am happy to take your questions.