

**Cable Congress Dublin**  
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Thank you to Cable Europe for the invitation to speak and share my perspective on issues that are important to all of us.

During my career in public service and the private sector, I have witnessed some of the most amazing advancements in history. One of those was the cable modem, which had the potential to revolutionize the consumer internet experience. And nearly twenty years later, this industry should be proud that it took a risk and changed the world with broadband.

Ironically, nearly twenty years ago was also when the topic of net neutrality first surfaced. Little did we know then that this commonly shared principle would have turned into a protracted war.

Unfortunately, that war is still raging in the United States. It completely dominates communication policy conversation, sucking up money, resources, and mindshare. But for all the fire and fury over net neutrality, the debate is increasingly irrelevant. No matter how it is resolved—if it is ever resolved—it will have little real-world impact. Because while we are mired in an intractable squabble, technology and the issues we must face are swiftly moving on.

Similar to the First World War in Europe, net neutrality has become mindless trench warfare, with one side advancing briefly, only to lose that ground in the next volley of attacks from the other side. Like the Great War, internet activists, Democratic politicians and tech companies would have you believe that the so-called “battle for the net” is the “the war to end all wars.” They are wrong, just as President Woodrow Wilson was when he made the claim. Net neutrality policy does not remotely address the issues companies and consumers are facing today and likely will face in the future.

Net neutrality can be reduced to two components. The first is an affirmation that the internet benefits society when it’s free and open. No one I know argues against this article of faith. Those who engineered the Internet constructed an infrastructure that no one owned. A network where the intelligence did not rest in the center under the control of a telephone company or a government, but on the periphery in the hands of the people. Politicians and policymakers of both parties have championed internet freedom consistently for years. Broadband providers have based their businesses on selling an internet that is unimpeded and meets the expectations of consumers.

Put simply, net neutrality is deeply rooted in engineering, consumer expectations, corporate business models and the norms of internet activity. It is firmly entrenched, and I don’t believe the open internet experience will change, whatever the outcome of the current debate.

The second component of the current net neutrality debate is how to regulate the internet generally to protect consumers from future problems. On this point we see a dispiriting lack of imagination. The near obsession by the prior Federal Communications Commission for getting open internet requirements adopted, led to looking backward to the past for a legal framework. The result was the misguided imposition of Title II and common carrier law.

How sad that we landed on industrial-era laws, crafted to apply to a now disappearing landline telephone network, to guide us in the Information Age. These telecom laws have too many problems to list, but to name a few:

1. **They are about the wrong technology.** Telecom networks and the internet function in radically different ways. Title II is predicated on the wrong technological and economic assumptions, and, thus, will not function well when applied to the internet;
2. **They work too slowly.** The internet changes too quickly, business opportunities emerge suddenly and last briefly, and products and services change too convulsively for common carrier laws to keep pace—particularly given they were designed for a slow-moving telephone provider in the 1930s;
3. **These laws apply only to carriers and not tech companies.** They are exclusively network focused and do not reach important issues that stem from consumers using the internet. The limits of these old rules mean that harms stemming from the web are overlooked and consumers are left with little protection or recourse.

In short, the net neutrality debate is at best about the status quo and at worse about the past. In military strategy, the most common error made by leaders is that they fight the last war, rather than prepare for the next. That error is being committed by many policymakers in the U.S. today who are mired in vindicating lost battles of the past.

U.S. policymakers and regulators around the world need to pivot and focus collectively on how to craft a contemporary regulatory framework that nurtures healthy internet growth and addresses the growing list of concerns that truly impact our citizens. It is worth taking a moment to highlight a few of the significant issues requiring attention.

**Consumers are deeply concerned about their privacy.** Citizens around the world are growing fearful that they live in a surveillance economy operated by the companies whose products they use and, indeed, have increasingly no choice but to use. Massive data collection is the fuel of advertising profit and is being engineered to predict what we will do before we know ourselves—manipulating our actions, rather than simply serving our desires. Artificial Intelligence will dramatically increase our subjugation to algorithms. While Europe has pointedly worked holistically to address privacy issues, U.S. regulatory policy has instead focused only on ISPs and not the real data culprits.

**Technology addiction.** Many former senior employees from technology companies are sounding the alarm about products designed to addict us. Tech companies, competing for our

attention, are employing the most sophisticated research on our cognitive biases to glue us to our devices and keep us chasing the dopamine rush that comes from getting Facebook “likes,” maintaining Snapchat streaks and responding to notifications. Research is showing persuasively the harm to our mental health, particularly for teenagers and young people. Government has yet to even begin considering these issues.

**Fake news and foreign manipulation of our elections.** We know that extensive data collection allows digital platforms to narrowly target advertising. Yet, it also can be used by those with bad intent to engage in precision propaganda. Dipayan Ghosh and Ben Scott in a recent report entitled #DIGITALDECEIPT, make clear that “when disinformation operators leverage this system for precision propaganda, the harm to the public interest is substantial and distinct from any other type of advertiser.” Fragmentation is dangerous in a democracy, particularly if it is being used in an effort to manipulate the outcome of elections on which democracies depend.

**Cybersecurity.** We have long encouraged our citizens to get online. Businesses, increasingly, are eliminating paper and doing away with physical approaches to using their services. Consumers have their entire lives in the cloud and are highly vulnerable if their identities, their savings, and their most intimate details are unprotected. Yet, government cannot offer a promise that our society is adequately protected in the virtual world. Malware, bots, viruses and ransomware have become the new normal and civilization is exposed.

**Market power.** Four enormous tech companies—Google, Facebook, Amazon and Apple—have become staggering in size and power. As author Scott Galloway describes it, these companies have “aggregated more power than nearly any other commercial entity in history. Together, they have a market capitalization of \$2.8 trillion (the GDP of France).” Amazon is bigger than the top 15 most well-known retail companies combined. Google and Facebook together are bigger than the top 5 advertising companies, plus the top 5 media companies, plus the top 5 communications companies. They have the size, power and influence of a nation state. Antitrust policy has barely begun to address how to check this power to protect consumers and healthy competition. This, too, is an area where Europe is well ahead of the United States.

In an effort to move beyond net neutrality and encourage fresh thinking about regulation and the future, I offer five general principles to guide a more holistic regulatory framework.

### **1. Reaffirm the inter-dependent nature of the internet ecosystem**

Many of those attacking the ISP industry in the net neutrality debate promote the idea that infrastructure providers are not part of the internet. They insist that only edge companies are the internet. This sophistry is intended to maintain a world of asymmetrical regulation—no regulation of “true” internet companies, but plenty of rules for the infrastructure companies. This ridiculous notion leads to poor policy decisions.

The fact is the two components are inherently dependent on each other. Without a powerful network, there is no streaming content or social networking. Infrastructure and content must operate in harmony. A better network means better content, and better content leads to even

better networks. Policymakers must enact laws that see these things as one continuously evolving ecosystem and not as two separate pieces.

## **2. Promote infrastructure growth**

In the net neutrality debate there has been a false assumption that the internet is done growing. Some advocates insist that broadband providers have recouped their investment and the network has matured, leaving providers free to sit back and reap the profits. This is not only wrong factually, it represents a perspective that limits serious approaches to incentivizing deployment of next generation networks.

In the United States, cable providers are looking to deploy next generation networks that will be capable of reaching speeds of 10 Gbps and higher. The wireless industry is also in revolution, trying to find an economic path to 5G wireless networks. Wi-Fi networks, too, are becoming more widespread and more capable. These networks will weave into a seamless high-speed “Connecta-sphere” that allows consumers and devices to operate effortlessly in both mobile and fixed environments. Contrary to net neutrality advocates who claim we want to slow down networks, we are spending heavily to speed them up.

A brief glance at the technologies coming our way clearly demonstrates how critical it is to have the most optimal environment for investing and building better networks. Artificial Intelligence, virtual reality, autonomous transportation, IOT devices, advances in health care and education are flooding society. But, they will be bottled up without high capacity, high quality networks. This is not the time to be engaging in a reckless, backward looking, heavy-handed regulatory experiment. It is perilous to apply a discredited regulatory model to the thriving internet. The same model that has wrecked investment in roads, bridges, electricity, and water systems, leaving the U.S. government scrambling to find the money to repair the broken infrastructure.

Most importantly, the U.S. and the world need to redouble efforts to connect the unconnected. Rural areas and poorer communities desperately need access to quality internet services in order to be part of the evolving digital world.

## **3. Subject tech companies to greater scrutiny**

We have reached a point where governments can no longer coddle and cater to tech companies. They have become too large, too influential and too indispensable to live above regulatory scrutiny. As a start, we need to reject the “do no evil” fairytale. These companies must be brought back down to earth and regulators must recognize them for what they are: profit-maximizing corporations, that have a strong incentive and ability to pursue their own self-interest over the interests of society and consumers.

Second, governments must abandon the idea promoted by tech companies that they bear no responsibility for the platforms they create and the activity that takes place there. They are the only ones in a position to address questions of foreign interference in elections, criminal activity

such as sex trafficking, and teen bullying or addiction. These companies have earned their supremacy, but now have essential obligations to society to address the implications of their products.

Third, privacy has become a very serious issue. These companies have powerful corporate incentives to ignore or discount privacy concerns. Learning everything about us is how they built empires. Only robust regulatory oversight from the outside will be effective in protecting consumers.

#### **4. Reinvigorate antitrust and competition policy and apply it fairly**

Antitrust and competition policy are essential to protecting healthy, functioning markets. Antitrust scholarship must evolve to address the rapid and growing market power of the tech community. Big alone is not bad but having outsized influence over every facet of human activity is disturbing. As the *Economist* recently said, “the titans [do not] simply compete in a market. Increasingly, they are the market itself, providing the infrastructure (or ‘platforms’) for much of the digital economy.”

Our governmental authorities need to get a handle on what kind of market power and harm flow from companies that have an unassailable hold on large pools of big data, which serve as barriers to entry, allowing them to dominate industries throughout the economy.

For years, big tech companies have been extinguishing competitive threats, by buying or crushing promising new technologies just as they were emerging. They dominate their core business, and rarely have to foreclose competition by buying their peers. Competition policy must scrutinize more rigorously deals that allow dominant platforms to kill competitive technologies in the cradle.

No matter the competition rules of the road, those rules must be applied fairly to all market participants.

#### **5. Secure and protect the internet**

Finally, governments have no greater responsibility than protecting its citizens from attack by those that seek to hurt them. Cybersecurity continues to need serious global attention.

The internet is amazing and far reaching. It will be the core foundation on which the future will unfold. It deserves a regulatory response that is equally enlightened and forward looking. The cable industry will play a critical role in the information and technology future. We stand ready to build the strong foundation that the future needs, but we need forward-looking policies that keep pace and are applied more fairly. If we get them, the future will be very bright.

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