

**Opening Statement of the Honorable Greg Walden
Subcommittee on Communications and Technology
Hearing on “Protecting the Internet and Consumers Through Congressional Action”
January 21, 2015**

(As Prepared for Delivery)

Welcome to our subcommittee’s first hearing of the 114th Congress. I can think of no issue within our jurisdiction that is more important to consider at this time than the future of the Internet and our responsibility as legislators to set Internet policy for the country. That’s why we’ve put forward draft legislation to provide consumers the protections they deserve while not choking off investment and innovation. We have shared this draft with my colleagues on both sides of the aisle, we’ve made it available publicly, and we have invited our witnesses today to give us their views on this draft proposal.

We have a very important choice to make between letting three very smart and capable, but unelected people at the FCC use a statute written for another era to cobble together a regulatory scheme that undoubtedly will end up in years of costly litigation, providing no protections but much uncertainty, or we can do our job and craft a new law for this century through the open and transparent legislative process that we are beginning today.

We have come together before in this committee to craft communications legislation that is now good law, and we must do so again. It is the only way to bring clarity and certainty to Internet governance.

A little less than four years ago, the FCC was in court defending its first attempt to regulate the network management practices of an ISP. Since then, the commission has gone to court twice in defense of net neutrality. And twice, the courts have rejected the FCC’s rules. While the court seems to have given FCC lawyers a “third time’s the charm” roadmap for how to craft rules under the current act, the commission is preparing to invoke net neutrality’s “nuclear option” – reclassification under the set of aging and inapt rules developed for 19th century railroads and adapted for the age of the monopoly telephone. We don’t have to settle for that.

We have a duty to those who use the Internet, those who manage the Internet and those who build the Internet to provide legal certainty, consumer protection and clarity for investment. What we are offering today is a solution that will bring to an end the loop of litigation and legal gymnastics that has flowed from FCC attempts to shoehorn the policy it wants to fit the authority that it has.

Our discussion draft is largely based on the 2010 Open Internet Order, adopted by former FCC Chairman Julius Genachowski and draws from the legislative proposal put forward by former Energy and Commerce Committee Chairman Henry Waxman.

Some pundits have raised concerns that this draft bill curtails the new-found authority that the courts have read into Section 706 of the Telecommunications Act. Section 706 was added in 1996 and instructs the FCC to promote the deployment of broadband networks. Until recently, it was understood that Section 706 meant that the FCC should use its existing authority to promote broadband deployment. And it worked. However, last year the courts for the first time interpreted Section 706 to permit the FCC to take nearly any action to promote broadband, so long as it isn’t inconsistent with the rest of the Act. Did you catch that? Nearly any action. While some take comfort that a slim majority of this FCC will do as they want, what happens when an FCC not of their liking grabs the regulatory throttle? Let me put a finer point on this: that means that Amazon, Etsy, and every other Internet-based company should be prepared to meet its new regulator. If you’d like an idea of what you’re in for, look no further than your fellow witnesses Mr. Powell and Ms. Baker, former regulators who currently represent the regulated.

It’s time to update this law. It’s time for a fresh approach from we who are elected to write the law and set the nation’s policy. My priority is to protect consumers and the Internet we all rely on. My priority is to

encourage its expansion to the hills and valleys of our vast nation that lack connectivity, and to various segments of our population that are underserved and too often ignored.

Together, we have taken on complicated communications challenges and produced good legislative solutions. We've stood up to powerful special interests and stood with the American people. We must do so again.

This draft legislative proposal represents our good faith effort to end the net neutrality debate before it goes to court again. Our committee will not ignore our responsibility. As some of my colleagues know, we've been working on the principles and draft legislation for months. We have listened to supporters, opponents and neutral parties, too. We will take the advice and counsel of our witnesses today into full consideration. And then we won't let the old Washington gridlock stand in the way of us doing the job our voters demand and deserve.

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