

**Opening Statement of the Honorable Greg Walden**  
**Subcommittee on Communications and Technology**  
**Hearing on “Common Carrier Regulation of the Internet: Investment Impacts”**  
**October 27, 2015**

*(As Prepared for Delivery)*

Eight months ago the FCC decided to grab control of the Internet and regulate it like a monopoly utility under Title II. Rather than work with Congress to adopt a statute that would punish those who engaged in harmful actions, the FCC yielded to White House pressure and went all in for Title II.

The predictable result is litigation in the courts and uncertainty in the marketplace. I understand that there was a great demand for strong, enforceable rules to govern the relationship between so-called edge providers like Netflix and Internet service providers. I still believe that goal is achievable, but I also still believe that Title II is the wrong approach and is likely to dampen investment in the Internet. Clearly, the private sector will continue to invest in broadband build out and improvements. The question is, will that investment plateau, or even decline, over time? After all, it's the money on the margins that helps extend broadband into unserved and underserved areas.

One witness will testify today that based on the available evidence the economic impacts of this type of regulation could increase costs and decrease investment of anywhere from about 5.5 percent to about 20.8 per year, and the ratio of investment to capital stock could decline by roughly those amounts as well. To put that into context, at the low end a decrease of that magnitude in 2014 investment would range from about \$4.29 billion to a high of \$15.6 billion.

These studies were based on observations of other industries that have experienced a significant shift toward more economic regulation, and on the pattern of decreased investment in other countries when they subject their telecommunications sectors to much higher levels of regulatory oversight than our traditional light regulatory touch.

There are many other ripple effects of the commission's action. There's the uncertainty factor—businesses don't know what to expect as they look ahead, making them pause to do risk assessments of regulatory hurdles before expanding offerings or investing in infrastructure. What will happen in the courts? What will happen with a new chairman? What if someone pushes the FCC to walk back some of the forbearance they agreed to as part of their Open Internet order? All of these uncertainties serve to tamp down dollars spent on improving networks and services to consumers.

There are also the hidden costs of compliance in this new, possibly litigious territory. What about fines for missteps? Given the runaway nature of the fines from FCC's compliance bureau, you know this is a concern. Trying to navigate murky legal and regulatory rules puts quite a burden on companies who want to avoid running afoul of the rules, but are unsure how the FCC will ultimately interpret these new rules.

We are not here today because we think investment will come to a screeching halt, or that most of these providers will stop putting money into their valuable assets. But given the incredible levels of investment in the past, any decrease, any pause, is a loss to our economy and to consumers.

And in the end, the consumers, the American people, are the ones who will ultimately bear the greatest loss from these rules. Whether it's because the increased burden drives small providers out of the market, or because there is less incentive for any company to invest in new and innovative service offerings, or because additional infrastructure investment is no longer as attractive to industry and investors, Title II regulations don't inspire innovation or investment confidence.

In the long term, it means uncertainty, reduced investment, and a future of "what might have been" for our vibrant and thriving Internet ecosystem. We can do better. I look forward to hearing from our witnesses.

###