

**Opening Statement of the Honorable Greg Walden
Subcommittee on Communications and Technology
Hearing on “FCC Overreach: Examining the Proposed Privacy Rules”
June 14, 2016**

(As Prepared for Delivery)

Good morning. I'd like to thank our witnesses for joining us today to offer their expert counsel.

Today's hearing is a direct result of the FCC's premeditated efforts to supersede the Federal Trade Commission's successful, enforcement-based approach to consumer privacy with its own predetermined vision of what consumers want and how the Internet should function. The hearing title aptly sums up this approach up as an “overreach,” but fails to convey the scope of the damage the Commission's actions could have on the Internet and on consumers. The Commission shortsightedly looks at one piece of the Internet and despite evidence to the contrary assumes that regulating it will improve privacy; the Commission shortsightedly overlooks the history of this industry and the value of innovation in ISP service offerings; and, the Commission shortsightedly overlooks the value of competition, both among ISPs and between ISPs and other online industries.

In short: The FCC seems unable to see ISPs as ISPs. It still sees them as siloed cable, wireline, and wireless companies and regulates them as though the Internet hasn't changed everything.

The Internet has long been known for being disruptive. Rare is an industry that the Internet hasn't changed. This has long been enabled by the Federal Trade Commission's approach to consumer privacy on the Internet. Grounded in informed consent and backed by enforcement of broken promises, the FTC's approach to privacy has allowed companies to innovate and experiment – sometimes successfully and sometimes to their detriment – with business models and services without the Federal government deciding before-the-fact what consumers want.

Despite the Internet's track record as arguably the greatest economic value and job creation engine the world has ever known, the FCC wants to tinker where there isn't a demonstrated problem. Perhaps more insidiously, the FCC has gone so far as to manufacture a problem so that it could “solve” it, remaking ISPs in their desired image.

ISPs are not unique among Internet companies when it comes to access to customer data. This isn't conjecture, it's the conclusion of the report written by privacy expert, Peter Swire, who served in both the Obama and Clinton administrations. The regulations would give consumers a false sense of security about their privacy by only applying to just one part of the Internet that has access to their data. Consumers expect and should have a uniform experience on the Internet. The FCC's approach would protect your data only as far as your ISP is involved. This could be particularly confusing for consumers when their ISP is also a provider of “edge services” on the Internet. Consumers shouldn't have to be experts on IP interconnection or routing to understand what level of privacy their data will enjoy.

The impacts of these rigid regulations have the potential to disrupt an ecosystem that has flourished for years, and unfortunately, it's consumers who will pay the price. The FCC has proposed a set of regulations that would not only single out ISPs based on faulty assumptions, it would affirmatively prevent ISPs from competing. A robust record of comments warns of higher costs, stifled innovation, and fewer service offerings. None of these are risks we should be

willing to take or consequences we are willing to put on American consumers. We should be encouraging competition, not slowing it down with burdensome and inconsistent regulations.

I and other leaders on this Committee called for the FCC to reconsider its current approach. As commenters in the record suggest, the FCC should engage in thoughtful discussions with industry to develop flexible and consistent rules, mirroring the FTC framework that has proven successful in today's digital marketplace. This needs to occur before any more taxpayer dollars are wasted on developing and defending complex regulations that will harm consumer welfare.

I am grateful for the expertise we have on today's panel. We will hear from experts in the privacy field, including the former Chairman of the Federal Trade Commission. It is my hope that we can generate a productive dialogue that incorporates what has been successful in the past, the lessons we can learn from the flawed proposed rules, and most importantly, what best serves American consumers. The Internet has helped to shape our economy in ways we could have never imagined, we must work together to preserve the competition and innovation the Internet embodies. Thank you to our witnesses for being here and I look forward to hearing your testimony.

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