

## Opening Statement of Chairman John Thune

U.S. Senate Committee on Commerce, Science, & Transportation Hearing:  
Protecting the Internet and Consumers through Congressional Action

January 21, 2015

Today we convene the committee's first hearing of the 114th Congress to consider an issue that has divided policymakers for more than a decade – how best to protect the open Internet. The Federal Communications Commission believes it already has the answer – impose public utility regulations on the Internet. But there is well-founded fear that regulating the Internet like a public utility monopoly will harm its entrepreneurial nature, chill investment, and lead to prolonged litigation.

Instead of using outdated regulations, I believe the most enduring way to protect both the Internet and individual Internet users is through legislation that establishes clear rules of the digital road as well as clear limits on the FCC's regulatory authority. Certainty about how consumers will be protected and certainty about the government's role in the online world is critical to preserve the Internet as an engine for innovation, creativity, economic growth, and free expression.

I want us to pass legislation providing certainty that users will have unfettered access to the entire Internet. I want us to pass legislation that provides certainty for creators at the edge of the Internet, so that they can continue to reach users across the Internet *without interference*. I want us to pass legislation that provides certainty for Internet service providers about precisely what rules they will be required to follow. I want us to pass legislation that provides certainty for the FCC, so that it can enforce legally-sound open Internet rules that survive beyond the current administration. The entire Internet needs this kind of statutory certainty, and only Congress can provide it.

Last week, I put forward a set of eleven principles that I believe can be the framework for a bipartisan consensus.

- Prohibit blocking
- Prohibit throttling
- Prohibit paid prioritization
- Require transparency
- Apply rules to both wireline and wireless
- Allow for reasonable network management
- Allow for specialized services
- Protect consumer choice
- Classify broadband Internet access as an information service under the Communications Act
- Clarify that Section 706 of the Telecommunications Act may not be used as a grant of regulatory authority
- Direct the FCC to enforce and abide by these principles

The discussion draft that Chairman Upton and I released is our attempt to turn these principles into statutory text. The details matter greatly in this debate, and we felt there could be no progress toward a solution until legislators started discussing those details. I do not expect our draft to be a final product, but I also believe that it is *not* a partisan starting point to the conversation. We have put forth a good faith proposal to find common ground between the parties. We hope today's hearings will facilitate a serious conversation around a long term solution.

I am willing to discuss how the eleven principles will be implemented, and I am eager to get to work with my colleagues, many of whom I have already spoken with. But I also want to be clear that I will not compromise these principles, particularly if doing so would leave the FCC's authority unbounded or would leave open the possibility for harmful regulatory burdens being leveled on the Internet.

Chairman Upton, Chairman Walden, and I have been working with our colleagues on the Commerce Committees and across the aisle since late last year to find a lasting resolution that protects the open Internet. My colleague, the new Ranking Member of this Committee, Senator Bill Nelson of Florida, has been serious and substantive in discussions with me. I appreciate his efforts, and they underscore that there is a bipartisan interest in finding a legislative solution.

In the absence of clear legislative guidance, the FCC has floundered for more than a decade to forge its own regulatory powers from legal authorities crafted prior to the emergence of the Internet as the most consequential communications platform of our lifetime. We have now reached an unfortunate point where both the President and the chairman of the FCC feel compelled to move forward using a tool box built 80 years ago to regulate a literal monopoly. And they do so without any apparent interest in working with Congress to solve the FCC's legal dilemma.

Even if the executive branch seems willing to go alone down a politically toxic and legally uncertain path, I sincerely hope that a willingness to collaborate develops within the legislative branch. After a decade of failure and wasted taxpayer resources, we should not continue to leave this issue to a five-member regulatory agency. Congress needs to reassert its responsibility to make policy, and let the FCC do what it does best – enforce clear statutory rules. I want to work together with my colleagues to finally settle the question of the FCC's authority over retail Internet service. If Chairman Wheeler moves ahead as planned, however, the only certainty is that the FCC will again find itself tangled up in court for years to come.

Before I finish my remarks, I want to put forward a challenge to the members of this committee. Let's find common ground and forge a permanent solution. I have offered the President an opportunity to engage, I have spoken with Chairman Wheeler on numerous occasions, and I will engage *any* Senator who wants to find a workable legislative solution. Having the FCC regulate the Internet as a public utility while Congress sits idly on the sideline is an outcome that will prove to be short-sighted. Let's find a consensus solution that none of us have to call a "compromise."

I look forward to hearing from our diverse panel of experts, and also to working with my colleagues in the coming days and weeks.