

“Cable Freedom”
Remarks by Kyle McSlarrow, President & CEO
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I thought today I would briefly provide a general perspective on issues involving regulation and the cable industry. In part, of course, my perspective is that of someone new to the cable industry. But in the time I’ve had in this position, it has become clear to me that “networks” – systems involving both content and distribution – present many challenges to what we normally describe as property rights and that these challenges are often intertwined with traditional issues involving content regulation. And, I would assert, we need to be fully as alert to the defense of property rights to ensure the kind of investment we all should want and expect in the telecommunications arena.

This approach is, I think, fully justified by the record and experience of the cable industry.

The cable industry was founded by entrepreneurs who embody the best of creativity, risk-taking and innovation. At the outset, just after World War II, it was a small number of visionaries taking the limited savings they had, stringing wire, and putting an antenna on the top of a hill.

Creating an industry, when no one else saw it coming. . .

That spirit can be seen over the last decade as well when the industry made a massive investment in fiber optic technology to deliver broadband today, when others seemed to do nothing but talk about how it would come tomorrow.

These entrepreneurs created an American success story. In the last ten years alone, the cable industry has added half a million new jobs to the American economy.

Our industry gives back to the communities it serves. We don’t just send a signal into a market. We provide over \$2.4 billion in franchise fees to local communities. We live in our communities, give to local charities, engage in local public affairs, and help weave the fabric of community after community in a thousand different positive ways.

The cable industry has completely changed that way we interact with the world by giving us more diversity and more choice. We take for granted that news and sports can be seen 24 hours a day; we hardly notice that family and children's programming is available on multiple channels every day; and we treat it as a given that each one of us could have one or two channels that appeal to us in a unique way. And all of this exists because our industry shattered the status quo at a time when we just accepted that three broadcast networks were somehow a fact of nature.

Our industry has led the way in innovation. Others may deliver video; some deliver phone service; some may deliver high speed internet service. Others want to offer high definition television, video on demand or digital video recorders.

But only the cable industry offers all of these things. And only our industry offers these services today.

This isn't an accident. It is the result of risk-taking over several decades and, most recently, a decision by the industry to invest nearly \$100 billion of private capital building a hybrid fiber network . . . upgrading nearly 1.5 million miles of plant.

Decisions like this, naturally, are shaped by the regulatory framework in place at the time these decisions are made. There are many ways, of course, to think about the right kind of framework for the future. But let me suggest that the most important goal is to ensure this kind of innovation and investment continues. The word that comes to my mind in that context is freedom. And it is worth thinking about what that means.

When thinking about freedom and the media, the usual and quite vital way to think about this is in the sense of regulation of content. But freedom is of course far more than just content; it must also include the ability, through operation of the free market, to provide choices of applications and services to the consumer.

Our freedom is also dependent on the fact that we largely respect the sanctity of contract and try to protect the freedom to use our property as we see fit.

Words have a power and a logic all their own. But I am continually amused about the universality of phrases like "investment" or "choice" – which everyone on the political continuum will say they are for – when the speaker has no evident sense that he or she has put those concepts into conflict with one another.

When we talk about investment, we are really talking about a process which places a value on an asset with a return on capital. And when it comes to private property, it is a straightforward proposition: restrict the uses to which a property owner can put his or her property, and the value of the asset in terms of investment goes down; conversely, if you allow someone else to use your property when they have not taken the risk and made the investment, you get the same result. And of course, that someone else can be either the government or a third party.

Now, it is not a novel concept to say that protection of private property and speech are linked. That is why any good litigator when confronted with cases involving the media will often have to think through arguments asserting the Takings Clause and the First Amendment.

But it would be ideal if we could think about these concepts before the litigation and before the legislating.

There is such a thing as real freedom or choice for consumers and they will know it by the way applications and services affect their lives in profound ways, increasing their productivity, giving them more convenience, enhancing their quality of life . . .

Though we seem to shy away from saying this, an important part of our freedom as providers comes from supplying consumer demand and, as consumers, it comes from having those choices available . . . and that can't happen without protecting the property rights of those who invest and take risks to anticipate and meet that consumer demand.

For the cable industry, this affects several core areas of our business.

First, like all content creators, our cable programmers need to be able to protect their intellectual property, which is increasingly complicated in a digital world.

And for our cable operators, there are very serious implications for the cable plant itself.

It cannot be said too often: cable operators created a private network.

No one gave us a government granted monopoly with guaranteed rates of return.

And no one gave us the bandwidth in our cable plant for free – we created it.

That spectrum has value, and we can use that bandwidth to do some spectacular things that will surpass anything consumers today are even thinking about. But every time someone thinks they can just take a slice of bandwidth here, or a slice there – whether you are talking mandatory dual carriage or multicasting or something else – you reduce the incentives to invest, you pick winners and losers for carriage on a pipe that does not have unlimited bandwidth, and you reduce the real freedom of the consumer.

As all of you know, we are currently going into a period where Congress is appropriately taking a fresh look at the framework established by the 1996 Telecommunications Act.

As I have said before, while the 1996 Act may not be perfect, any American who considers the sheer diversity and scope of telecommunications and its contribution to our quality of life today doesn't need a policy wonk to explain it to them.

They *know* that the framework in place today has either fostered – or at least not prevented – the spectacular growth of the Internet, the wireless industry, and more competition in services and applications in voice, video and data, than anyone could have imagined in 1996.

The '96 Act was intended to foster competition in the provision of all communications services and to provide incentives for existing providers to undertake the large-scale investments necessary to compete in each other's businesses.

When it comes to the cable industry, this approach obviously worked.

After passage of the 1996 Act, we embarked on a massive rebuild of our systems with fiber optic technology.

The industry's investment in programming is paying big dividends for consumers, who are enjoying more programming choices than ever before. And cable now passes 98% of all television households.

We're providing the finest quality high-speed Internet service available on the market today. Starting from scratch, cable operators took the risk of introducing cable modem service and fundamentally changed the Internet experience for residential users. High-speed service is already available to more than 90 percent of the nation, and 22 million households subscribe to the service provided by their local cable operator.

When it comes to voice service, cable operators are making real their promise to give consumers a full-scale, facilities-based alternative to their local telephone company. Using our broadband network, cable operators provide telephone service to more than 3.5 million residential customers. By year end, one industry analyst estimates that cable will market IP voice service to nearly 63 million homes.

More than 25 million customers currently purchase "digital tiers" of video, which include up to 260 additional channels of video programming, increasing numbers of high definition cable network and broadcast channels, and CD-quality music.

"Video on demand" services and digital video recorders provide consumers with the ability to pause, rewind and fast-forward through movies and other programming of their choice. And thousands of hours of video on demand programming are available at no additional charge.

American consumers today, more and more, are able to watch, see, or listen to what they want, when they want it, on the device of their choice.

That is real freedom . . . cable freedom . . . or, perhaps I should say, fiber optic freedom.

So, as we take a look at the laws on the books, we need to ensure a regulatory climate that permits us to build on our successes. What is at stake for the cable industry is pretty straightforward. If we look for ways to refine the regulatory framework to ensure that investment and competition will continue, our industry can bring consumers the exciting new services I've just described, and many more that we probably are not even contemplating today.

The right policy will drive innovation and foster competition.

And, to achieve those goals, we should keep a couple of principles in mind.

We should not look to our political institutions to intervene in what are properly marketplace negotiations.

We should reduce economic regulation wherever possible.

We should ensure that certain universally recognized social responsibilities and objectives are borne by all providers of the same communications services.

Finally, what matters to consumers, and what should matter to policymakers, is not the technology used to provide services, but the services themselves. Like services should be treated alike.

Last year, for example, the cable industry applied those principles when we put forward a proposed framework of rights and responsibilities for IP voice providers. We believe a similar doctrine should govern the regulation of IP video services. That might surprise some people . . . but we are willing to compete on whatever level playing field is set by Congress.

There are, of course, a host of complicated issues that will need to be worked through in an arena as complex and important as this, and I won't take the limited time I have here today to go through them.

But, as Congress takes a look at telecommunications policy, we urge lawmakers to consider the following:

Less regulation gave the cable industry the freedom to invest and create new services and hundreds of thousands of jobs . . .

That investment gave our customers the freedom to stay connected to the Internet . . . which is always on . . . and freed them from dial up services;

It gave our customers the choice of video, high speed internet service, and telephone with one broadband pipe;

And it gave them the ability to choose what they want to watch, when they want, and how they want;

None of this would have happened without establishing a framework that respected the private nature of our networks and provided the incentives to invest. That framework is by no means perfect . . . but as we move forward, we should ensure that the freedom cable provides consumers is very much at the forefront of our thinking.