

Congressman Marsha Blackburn
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Remarks as Prepared for Delivery

During Christmas Week, The Federal Communications Commission moved forward the first-ever regulation of the Internet.

No one seems satisfied with the ruling, nor does anyone expect that the regulations will last for long.

Congressional failure led us to this point. Too few Members have engaged seriously enough on net neutrality. Other than a handful of Members on the Energy and Commerce Committee, neither caucus has laid out a national vision for tech policy.

Where Congress fails to lead, bureaucracy rushes in.

Both Republicans and Democrats active on the tech policy front have hyper-focused on *technology* – or the delivery systems- as the be-all / end-all of tech policy without giving sufficient thought to what is driving the technology and its development.

We alternately cast our regulatory gaze- or try and defend from regulation- every new platform, device, or application without looking at the interconnected whole, articulating our respective approaches, or applying our core values.

The casual observer sees Republican and Democrat approaches to tech policy as stylized. Republicans appear to reflexively defend big corporate interests.

Democrats appear ready to smother any forward moving technology under reams of regulation.

For Conservatives the challenge must be to look beyond platforms and technology to seek out those core Conservative values that are the basis of all of our positions.

We must see the latest regulatory impulse at the FCC as the wake-up call it is. We must seriously apply our philosophy of government to the new economy that will drive American life and culture in this century.

Tech policy debates will shape the engine of our economy and could become the next great challenge to our principles.

The degree to which that economy is kept free, to which property rights are protected in the next century, to which free speech is assured; may all be shaped by tech policy.

These are THE core conservative values, and we must rise to defend them in the tech policy debates of the coming decades- not to mention the coming Congress.

They can be best applied through three propositions: First, what I call *The Creative Economy* is the emerging driver of the American economy and should be the focus of tech policy.

Second, intellectual property is the chief commodity in this new economy. For our prosperity to endure, intellectual property rights must be reinforced.

Finally, that the Internet is the primary marketplace for the creative economy.

It must be kept free, predictable, and accessible.

Proposition 1: The ascendant economic sector is the Creative Economy.

With labor costs, a cocktail of corporate taxes, and regulation as far as the eye can see, America's industrial sector cannot be the economic engine that it was a generation ago.

Clearly our ascendant strength and prosperity will come from a new sector; The Creative Economy.

The Creative Economy comprises all that *stuff* you consume online and the new ways you perform everyday tasks.

I'd like to see a show of hands- if we were to label laptops, iPhones, Blackberries, iPads, MP3 players, net books, as consumption devices-

how many of you can honestly say that you have ONLY ONE consumption device on your person this morning?

That's what I thought- and it proves what I am saying.

The proliferation of consumption devices is a product of - and testament to the strength of a Creative Economy that is producing ever more *stuff* to consume.

While those devices have become the focus of tech policy, they are actually incidental to the greater underlying Creative Economy. THAT should be the real focus for Conservatives.

Conservatives must not let big government, regulation and taxation limit the long term potential of the Creative Economy, as it has already done with the Industrial sector.

As the Creative Economy produces, it employs. It employs Americans in jobs that are not rushing offshore, aren't subject to scrutiny by OSHA or the EPA, and are as frequently headquartered in garages, kitchens, and coffee shops as they are in Silicon Valley.

I was struck by a column Thomas Friedman wrote a few months ago after returning from India.

Without ever naming it, he was stunned by the pace of innovation and entrepreneurship enabled by India's tech architecture and booming Creative Economy.

He profiled two brothers in Delhi who run a cell phone based money transfer system for low income Indians. The headquarters for this mini-bank -- their garage.

What kind of bureaucratic alphabet soup would an entrepreneur have to navigate if he wanted to facilitate that kind of money transfer in the United States?

Where would he start, the FCC, the FTC, the SEC? The mind boggles and the entrepreneur moves away.

The Conservative mission is to leave behind an obsession with devices and focus on the health of the Creative Economy.

To ensure America's future prosperity, Conservatives must vigorously apply the principles of small government. We must resist the urge to permit industrial age bureaucracy to assert redundant jurisdiction over entrepreneurs.

We must defend against the Washington instinct to hyper-regulate all that is new and imperfectly understood.

Proposition #2: The primary commodity in this economy is intellectual property.

Culturally, we all differentiate between material and intellectual property rights. For The Creative Economy to thrive, we need to dissolve the barrier and ensure intellectual property rights are as strictly enforced as material rights.

Our founders - in Article 1, Section 8, Clause 8 explicitly established an intellectual property right to be treated with the same reverence as the material property protected by the 5th Amendment.

Conservatives have always been champions of property rights and the rule of law. This must be a natural pillar of our perspective on tech policy. We need to protect intellectual property at home while we defend it abroad as the vital national resource it is.

The entrepreneurs who create these new consumables have to be assured that those hours of toiling to develop a concept into a product and then to monetize that concept in the global marketplace will be rewarded.

Just as we "defend forward" in the War on Terror, we must also ensure that American defense of American IP begins well beyond our borders.

Our President has set the goal of making America the leader in green energy technology. He has wide bi-partisan agreement on that goal.

My own home state has produced more green patents than almost other. I want those green patents to turn into green factories and green jobs.

To achieve it though, the Administration and Congress **must** protect our domestic innovators who – through the Creative Economy – are turning their ideas into energy, industry, and jobs.

To do this Conservatives must prioritize the removal of barriers to protecting IP, patents, and copyright, providing certainty to the innovative community.

Renewed defense of IP will be as much a cultural challenge as it is a legislative one. Still there are some items Conservatives should champion in this Congress:

These include a Patent Reform Bill with strict deterrents to infringement,

Compromise on Orphan Works legislation,

Passage of Rogue Website legislation, allowing law enforcement to go after organized online criminals who steal from American creators and rights holders.

Your privacy is also your property. You own the virtual you. Every day, more of your activities can be tracked. This often results in better products, lower prices, and improved efficiencies- but not always.

Government's role here is not to determine what information is or is not / should or should not be private. That is a standard that Washington should never presume to apply to the individual.

Rather, Government should simply assure that individuals know what activities are followed and easily allow you to protect those activities you see as no one else's business.

While we protect intellectual property- the chief commodity - that drives The Creative Economy, we must also work to expand the reach of that economy.

We can achieve more by simply providing predictability.

Proposition 3: The Creative Economy thrives online, in what is a unique, prosperous, - and until recently free marketplace.

The fact that the space where products are created and consumed is virtual is in many ways incidental.

The diversity of consumption online is extraordinary and will be vital to our future prosperity.

The FCC thought they were pushing into a regulatory vacuum last month when they unveiled their net neutrality rules. They may find soon that they stumbled into a Congressional hurricane.

No one, Republican or Democrat, Congressman or Commissioner believes that these new regulations are also the final word. They are the first draft of many regulations to come.

And as the rules are revised and revised and revised, they create instability, unpredictability- the greatest of all disincentives to investment.

The FCC initiated regulation in their attempt to prevent a problem that was hypothetical in the first place.

Let's not pretend that they were put in place to correct some market failure or address a widespread – even existent- consumer disadvantage.

The FCC's actions are also narrow minded - reinterpreting online commerce as online communication in order to assert jurisdiction. They regulate what is perhaps the most incidental aspect of any creative economy transaction- the means of transmission.

If individuals are not able to create without fear of government intervention, regulation, or increased tax burden; if they are hampered in their ability to monetize their innovation- a fear that the FCC has made very real- investment will slow dramatically, stifling the potential of the Creative Economy.

Here is the first opportunity for Conservatives to make a stand. The free marketplace is a cornerstone of our philosophy of government.

Does the Internet deserve special regulation simply because it conducts commerce in a new way?

I say it does not.

Should the Internet be regulated in extraordinary ways, in a manner we have not applied to other markets? Should we accept any regulation beyond the traditional protection of private property, enforcement of law, and protection of speech?

Conservatives must not.

It is incumbent now for us to immediately reverse the decision and better define the FCC's jurisdiction. In my view, that jurisdiction does not extend to online commerce in any way, nor to the platforms where that commerce takes place.

The Energy and Commerce Committee will move ahead shortly on our resolution of disapproval under the Congressional Review Act. I expect the resolution to pass the House and – given the dissatisfaction on both sides of the aisle – the Senate as well.

On the first day of the new Congress, I filed H.R. 96, my bill to reassert Congressional jurisdiction over the Internet, removing the FCC's unilateral authority in this arena.

We have gathered over 60 co-sponsors so far and I have every reason to anticipate that this legislation will pass shortly after our disapproval resolution does.

Beginning with the coming repeal of the FCC overreach, Conservatives should apply our philosophy to the broader arena of tech policy.

We must do so in the spirit of our classic defense of free markets and property rights while guarding against needless regulation and federal intervention.

For the like-minded in this audience I urge you to be vigorous in the debates to come. Ever more dazzling and wonderful devices must not distract us from the vital Creative Economy which has made those devices themselves possible.

We must assert our perspective knowing that to allow needless government expansion into the Creative Economy, to neglect the urgent defense of intellectual property, or to hobble the virtual marketplace; is to concede far more than a techie debate over incidental issues.

Conservative failure on this front will do more than concede the debate before we have reached the podium. It will stifle America's potential as the Creative leader.

For those of you who want to stand with me, go to my website and sign up for my newsletter. We will use that as a means to stay in touch and let you know when your efforts are needed.