

even say shameful—is that almost 1 million of those Americans looking for work are veterans returning home after valiantly serving our country. The unemployment rate for veterans of Afghanistan and Iraq is an indefensible 12.1 percent. It represents a significant blow to young men and women who are returning home after serving their country in very difficult circumstances. In 2010, 36 percent of Afghanistan and Iraq-era veterans were unemployed for longer than 26 weeks. Again, that is a shameful statistic.

This unfortunate trend is mirrored in my home State of Rhode Island. We have a very high unemployment rate—10.5 percent, one of the highest in the Nation. We have been unfortunately in that category for almost 2 years now. But for veterans, the rate is 11.1 percent. They are doing even worse than other nonveterans in the unemployment category. That is one more reason, by the way, that we should extend the unemployment compensation legislation that is so necessary. I have joined Senators DURBIN, WHITEHOUSE, LEVIN, MERKLEY, and GILLIBRAND, and we have proposed to do this with the Emergency Unemployment Compensation Extension Act of 2011. We still have people coming back from Afghanistan; we still have people who are holding on to a job but very well might lose it. They need these benefits, and if we don't pass this legislation, then beginning next January, there is a very real possibility that they will not be able to get these benefits which are so essential.

We have to work together. I think it is a very good example of the work Senator ENZI, Senator ALEXANDER, Senator DURBIN, myself, and others have done with respect to this legislation on sales tax. But we have to work across the aisle, particularly for our American veterans, but also for American workers throughout this country.

Again today we have a component of the American Jobs Act before us. This bill is focused on veterans, but the jobs act overall should be passed. We have argued for it endlessly, because it will put Americans to work, it is fully paid for, and it will be an investment in our infrastructure and in other programs that are long-term needs of this Nation.

This particular legislation before us targeted at veterans would provide incentives for businesses to hire these veterans, including a tax credit of \$2,400 for hiring a veteran who has been unemployed for more than 4 weeks but less than 6 months, a \$5,600 tax credit for hiring a veteran who has been looking for a job for more than 6 months, and a \$9,600 tax credit for hiring veterans with service-connected disabilities who have been looking for a job more than 6 months. These incentives will help veterans secure employment and they should be passed immediately.

These veterans deserve our help as they transition from their military

service to their civilian careers. They have incredible skills of leadership, of diligence, of dedication, of self-discipline that add to their technical skills and make them incredibly important for the growth of our economy, and they have to have the opportunity to use these skills for the benefit of their communities, as they did to defend their country. This legislation provides that critical assistance.

It has other aspects to it. First, it would provide opportunities for military personnel who are leaving active service for transitional assistance to be able to participate in workshops sponsored by the Department of Defense, the Department of Labor, and the Department of Veterans Affairs. The workshops will help them write resumes, receive career counseling, and other things.

Second, it expands education and training opportunities for older unemployed veterans by essentially providing an additional year of Montgomery GI bill benefits for use at community colleges and technical schools. It also allows servicemembers to begin to seek civilian jobs in the Federal Government prior to formally separating from their military service.

Earlier this week I was with the President when we announced these initiatives and more. After that visit to the Rose Garden, I went to Walter Reed National Military Medical Center in Bethesda to visit those young men and women who have served and who are now wounded warriors. Trust me, their spirit is undeterred, as is their commitment to their country. We owe them much more than we can ever repay, and the first payment of that huge debt is passing immediately—this week—this legislation to help our veterans. So as we celebrate Veterans Day with speeches, we will have a real accomplishment to bring to the American people and the veterans who serve and defend us today.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DISAPPROVING THE RULE SUBMITTED BY THE FEDERAL COMMUNICATIONS COMMISSION WITH RESPECT TO REGULATING THE INTERNET AND BROADBAND INDUSTRY PRACTICES—MOTION TO PROCEED

Mr. MCCONNELL. Mr. President, I move to proceed to S.J. Res. 6.

The PRESIDING OFFICER. Under the previous order, there will be 4 hours of debate, equally divided and controlled between the two leaders or their designees.

Mr. ROCKEFELLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, today's debate concerns S.J. Res. 6. In a larger context, though, we have been having this debate for 34 months. The theme is, the Obama administration's relentless imposition of new and destructive regulations has not helped us get into a recovery and, in fact, I think is freezing our economy.

We have seen it with the Environmental Protection Agency when it tried to regulate carbon emissions and greenhouse gases using the Clean Air Act, a purpose for which Congress never intended the law to be used. We have seen it with the National Mediation Board when it overturned nearly a century of precedent and issued a new rulemaking to allow unions to be formed more easily but harder to decertify.

We have seen it with the National Labor Relations Board when it took the shocking step of challenging Boeing's decision to create new jobs by building a new factory in South Carolina, simply because South Carolina is a right-to-work State.

Today's issue involves bureaucratic overreach into a symbol of American innovation and creativity, the Internet, because the Federal Communications Commission has now decided to regulate the Internet. Last December, three FCC Commissioners, on a party-line vote, voted to impose rules that restrict how Internet service providers offer broadband services to consumers. Those rules, known as net neutrality, impose 19th century-style monopoly regulations on the most competitive and important job-creating engine of the 21st century, the Internet.

This marks a stunning reversal from the hands-off approach to the Internet that Federal policymakers have taken for more than a decade. During the last 20 years, the Internet has grown and flourished without burdensome regulations imposed by Washington. Powered by the strength of free market forces, the Internet has been an open platform for innovation, spurring business development and much needed job creation.

The former Democratic FCC Chairman, William Kennard, stated in 1999 “[t]he fertile fields of innovation across the communications sector and around the country are blooming because from the get-go we have taken a deregulatory, competitive approach to our communications structure—especially the Internet.”

The present FCC is reversing that policy that has been successful beyond our expectations. Broadband Internet networks have powered the information and communications industry, which in 2009 accounted for more than 3.5 million high-paying jobs and about \$1 trillion in economic activity.

This industry has been an engine for major economic growth even during these difficult times. Yet the FCC’s rules could severely jeopardize this industry’s vast potential. Net neutrality is intended to limit how Internet service providers develop and operate their broadband networks. The net neutrality order allows the FCC to tell broadband providers what kind of business practices are reasonable and unreasonable. The FCC, however, did not bother to clearly define in its rules what the agency considers to be reasonable.

This point is vital to understand. With such an arbitrary and yet poorly defined standard, companies will be forced to err on the side of caution. Rather than risk possible punishment from the FCC, many companies will simply decide: Maybe we will not invest right now in new technologies. Maybe it is too risky to develop and deploy new services. At the very least, it will delay such investment.

This kind of regulatory uncertainty will be crippling for companies and particularly small providers. We have heard exactly that from a small wireless Internet provider in Wyoming called LARIAT. This is a provider that is serving remote areas and trying to expand to other unserved years.

LARIAT testified before Congress that these FCC regulations are already harming its ability to attract investors, grow its business, hire more workers, and serve new customers. Forcing broadband companies to ask the government for permission before moving forward is exactly what we should try to avoid when reviving our economy.

This FCC regime will lead to stagnation in Internet innovation in the United States, placing us at a disadvantage against overseas competitors who are not burdened with similar rules. Moreover, Internet providers will end up spending resources on lawyers and lobbyists in order to comply with the FCC’s rules, rather than investing those dollars in innovation.

Small companies will find it even more expensive to navigate Washington, DC. This certainly will not help consumers, particularly in rural areas, and will only increase the costs they have to bear. Before any new regulations are forced on American busi-

nesses, it is the government’s responsibility to clearly show, one, there is an actual problem that needs to be addressed. That should be foremost.

With the FCC taking such a large departure from the agency’s previous light-touch approach, one might think the FCC could point to a long list of net neutrality violations and problems that need to be fixed. That is not the case here. In a 134-page regulatory order, the FCC spent only three paragraphs attempting to catalog alleged instances of misconduct.

Within those three short paragraphs, every alleged problem was addressed under the FCC’s existing rule or, if not, it was fixed by the provider under pressure from the public or the competitive marketplace, where it should be fixed. As former FCC Commissioner Meredith Baker noted in her statement dissenting from the FCC’s net neutrality order, the Commission was “unable to identify a single ongoing practice of a single broadband provider that it finds problematic upon which to base this action.” To put it simply, the FCC has issued new rules without even demonstrating that intervention is actually necessary.

Despite protests to the contrary, these net neutrality regulations on broadband providers clearly establish the FCC as the Internet’s gatekeeper, a role for which the government is not suited. Innovation does not work on a government timetable nor does it thrive through a maze of roadblocks.

Ironically, supporters of net neutrality insist that providers are the ones who may become gatekeepers of the Internet. These people say the openness of the Internet is far too important to be left unprotected by the government. This is a false premise. In fact, the Internet has been an open platform for innovation since its inception, and it has not needed any sort of net neutrality rules from bureaucrats at the FCC.

To make matters worse, Congress has never given the FCC the explicit authority to regulate how Internet providers manage their networks. That is why the new rules represent an unprecedented power grab by the unelected Commissioners at the FCC. In fact, current law states: “It is the policy of the United States . . . to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.”

That is the law today. The FCC has lost this fight already in the courts. Last year, the DC Circuit Court of Appeals struck down the FCC’s 2008 attempt to impose net neutrality in the Comcast v. FCC case. The court ruled that the FCC was acting beyond the reach of its congressionally provided authority and cautioned that regulations should be imposed only with explicit congressional direction.

This was validation that regulatory agencies cannot make policy without

congressional direction. Rather than back down, however, the FCC doubled down. The current FCC order tries an even more expansive interpretation of the law than was used in the Comcast case. FCC Commissioners inexplicably claimed the agency can impose heavy-handed Internet regulation under section 706 of the Telecommunications Act. This was a section of the law that was intended to remove regulatory barriers to broadband investment, not to raise them.

If the FCC’s legal theory is left unchallenged, the FCC will have nearly unbounded authority to regulate almost anything on the Internet. It is Congress’s role, not the FCC’s to determine the proper policy framework for the Internet. Over time, and aided by the current administration, regulators throughout the government have gradually tried to seize increasing control over so many facets of American life. It is time for the Senate to stop this overreach. We write the laws of this country, not unelected bureaucrats. That is why we are here today.

Thanks to Senate majority leader HARRY REID, former Senator Don Nickles, and the late Senator Ted Stevens, one of the tools Congress has to stop rogue agencies is the Congressional Review Act. The Congressional Review Act allows Congress to review a rule before it takes effect and even to nullify that rule if Congress finds it is inappropriate, or if it overreaches, or if Congress itself hasn’t delegated this power to an agency.

As Senators REID, NICKLES, and STEVENS said at the time of this bill’s passage, “Congressional review gives the public the opportunity to call the attention of politically accountable, elected officials to concerns about new agency rules. If these concerns are sufficiently serious, Congress can stop the rule.”

We believe the concern about the FCC’s net neutrality rules is sufficiently serious to warrant the consideration of Senate Joint Resolution 6, the disapproval resolution Senator MCCONNELL and I introduced to nullify the FCC’s net neutrality order under the Congressional Review Act. The House has already passed its version of the resolution, and we need only a majority of Senators to send this bill to the President’s desk. Even a net neutrality supporter, Senator OLYMPIA SNOWE, who has authored net neutrality legislation, is a cosponsor and supporter of our resolution today.

While Senator SNOWE and I don’t agree on the need for a net neutrality law, we are in complete agreement—and she stated it beautifully—that Congress, not the FCC, should determine what the proper regulatory framework is for the Internet.

If the Senate does not strike down these regulations soon, they will go into effect on November 20, further jeopardizing jobs in this fragile economy. I guess you could say that it will allow more lawyers to be hired, but

more innovators? Probably not. That is not the mix we need to assure that our economy will get back on track in this country.

Studies indicate that net neutrality rules could significantly affect our economy. If net neutrality reduces capital investment in broadband infrastructure by even 10 percent, it could cost our country hundreds of thousands of jobs over the next decade.

We must preserve the openness of the Internet as a platform for innovation and economic growth. We must keep the competitive advantage that we have in this country for innovation. The last thing we ought to be doing is putting restrictions on our providers, when many countries that are also advanced in this area are not doing the same thing. So when we go to global competitiveness, we are putting our companies at a disadvantage. Why would we do that?

We must stop the job-killing regulatory interference by our government today in so many areas, and we can start right here, right now, by keeping the Internet free, voting for this resolution of disapproval, and saying to the regulatory bodies in this town: Congress must authorize a delegation of authority for your agency to pass rules, and especially when Congress is in disagreement with those rules.

This is a key policy decision for our body. We need to step up to the responsibility that Congress has. Our Constitution divided the powers between three branches of government. If Congress doesn't stand up for its one-third of the powers of this government and lets unelected bureaucrats run over our prerogatives, we will become a weaker branch, and our government will become weaker for it. We need to have three equal branches of government, and that means each branch must fulfill its responsibilities under the Constitution. Congress must delegate its authority explicitly for a rule to be made. That is the way the Constitution intended for Congress to fulfill its job as the elected representatives of the people of our country.

The House has passed this resolution. I hope the Senate will tomorrow. I hope the people will speak and say that even if you disagree on the basic issue of net neutrality, it is not the right of the FCC to pass sweeping regulations that will affect the economy of this country without explicit authority from Congress, which it does not have.

Mr. President, I ask my colleagues to come to the floor if they want to speak on this resolution. There is 4 hours, equally divided, and that time is now running. I say to my Republican colleagues that we have quite a list of those who want to speak. They must know that the time will run out in about 3½ hours now. I ask them to contact me if they wish to speak.

I yield the floor.

The PRESIDING OFFICER (Mr. SCHUMER). The senior Senator from the great State of West Virginia.

Mr. ROCKEFELLER. Mr. President, I rise today to oppose the Senate Joint Resolution 6, which was brought under the Congressional Review Act—about which I wish to talk—to disapprove the FCC's open Internet rules, such as they are.

Americans want the Internet to be free and open to them. They want to go where they want to go, see what they want to see, do what they want to do on the Internet. They don't want to have somebody blocking them or to have gatekeepers. They want it to be a nice, open forum for them. They care about the Internet. Everyone uses it. They want to be able to develop new businesses, and they want to read and watch video. They want to reach out to friends and family and community. And they want to do it online. They want to do all of these things on the Internet—without having to ask permission from their broadband provider. The FCC has promulgated balanced rules that let Americans do all of these things, and keep the Internet open and keep the Internet free.

Let us be clear from the outset. No matter how S.J. Res. 6 is dressed up in language that suggests it will promote openness and freedom, it will not do that. The resolution is misguided. It will add uncertainty, in fact, into the economy, and it will hinder small businesses dependent upon fair broadband access, where otherwise they might be put in a slower lane. They want to be in a fast lane. They want to be able to compete with other parts of the country. This resolution will, in fact, undermine innovation. It will hamper investment in digital commerce. It will imperil the openness and freedom that has been the hallmark of the Internet from the very start.

The FCC's rules were the product of very hard work, consensus, and compromise. The agency had extensive input from stakeholders from all quarters. They opened up and said send in your comments. In fact, they had written input from more than 100,000 commenters. About 90 percent of those filing supported the adoption of open Internet rules. On top of this, the rules are based on longstanding and widely accepted open Internet principles, which were first articulated during the second Bush administration.

These rules do three basic things. First, they impose a transparency obligation on providers of broadband Internet service. This means that all broadband providers are required to publicly disclose to consumers accurate information regarding the network management practices.

Second, the rules prohibit fixed broadband providers from blocking lawful content, application, services, and devices. This means consumers and innovators will continue to have the right to send and receive lawful Internet traffic, with mobile broadband service providers subjected to a more limited set of prohibitions. I will speak about that in a moment.

Third, the rules aim to ensure that the Internet remains a level playing field by prohibiting fixed broadband providers from unreasonably discriminating in transmitting lawful network traffic—which they have done.

Finally, the rules are meant to apply with the complementary principle of reasonable network management, which provides broadband providers the flexibility to address congestion or traffic that is harmful to the network. These are principles that I believe everyone can support. I see nothing wrong with them. The word "reasonable" somehow doesn't scare me. Maybe it should, but it doesn't.

I ask my colleagues, what is wrong with transparency? Why would we want to promote Internet blocking or discrimination? Why would we want to have some people on the fast lane and some on the slow lane, depending on whether you paid your Internet provider enough money? What is unreasonable about reasonable network management?

I believe that the FCC's effort, along with ongoing oversight and enforcement, will protect consumers, and I believe it will provide companies with the certainty they need to make investments in our growing digital economy.

While many champions of the open Internet would have preferred a stricter decision—and I am one of them; I myself have real reservations about treating wireless broadband differently from wired broadband—I think the FCC's decision was nevertheless a meaningful step forward. In a moment, I will talk about other people who feel the same.

Supporters of the joint resolution fail to acknowledge that the FCC's open Internet rules have received overwhelming support from broadband Internet service providers, consumers, and public groups, labor unions, as well as high-tech companies.

AT&T CEO Randall Stephenson stated earlier this year that while he wanted "no regulation," the FCC's open Internet order "ended at a place where we have a line of sight and we know and can commit ourselves to investments."

Time-Warner Cable said at the time of the order's release that the rules adopted "appear to reflect a workable balance between protecting consumers' interests and preserving incentives for investment and innovation by broadband Internet service providers."

Numerous analysts from major investment banks have found that the open Internet order removes what they call regulatory overhang and allows telecom and cable companies to focus on investment.

Google, Facebook, Twitter, eBay, Skype, and other leaders in innovation all urged the FCC to adopt "commonsense baseline rules . . . critical to ensuring that the Internet remains a key engine of economic growth, innovation, and global competitiveness."

More than 150 organizations wrote Congress to oppose this joint resolution. I hate reading lists, but I am going to do it anyway: the Communications Workers of America, the AFL-CIO, the NAACP, the U.S. Conference of Catholic Bishops, the American Library Association, the American Association of Independent Music, the Leadership Conference on Civil and Human Rights, the League of United Latin American Citizens, the National Organization for Women, and Technet. There are a lot of folks at Technet who have a lot at stake. I have their letters here.

I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 14, 2011.

DEAR MAJORITY LEADER REID, MINORITY LEADER MCCONNELL, CHAIRMAN ROCKEFELLER AND RANKING MEMBER HUTCHISON: We write to urge your support for the FCC's open Internet rule and rejection of S.J. Res 6, a resolution of disapproval under the Congressional Review Act. Americans have come to depend on reliable open Internet access for their daily life and work. Yet without a light touch FCC rule, households, students and small businesses lack any recourse at all if their Internet Access Provider (IAP) decides to prioritize its own content and affiliated services or block other end user choices.

The FCC's December 2010 decision was adopted after several lengthy proceedings and unprecedented public input. The result is a very modest rule designed to preserve open non-discriminatory Internet access. In deference to the wishes of IAPs, the FCC completely avoided Title II common carrier regulation. The rule allows flexible network management and does nothing to inhibit broadband network deployment, while it affirmatively facilitates innovation and investment in new online services, content, applications and access devices by providing some minimal assurance they will not be blocked arbitrarily.

CRA repeal would actually leave the American public worse off than with no open Internet rule, as it would also rescind FCC authority in this area. Congress has repeatedly entrusted the FCC with a duty to protect the public interest in nationwide communications by wire and radio. No other agency can help your constituents with Internet access trouble if FCC authority is terminated.

Sincerely,

ED BLACK,
President & CEO, CCIA.
REY RAMSEY,
President & CEO, Tech Net.

OPEN INTERNET COALITION,
Washington, DC, November 4, 2011.

Hon. JOHN D. ROCKEFELLER IV,
Chairman, Senate Committee on Commerce,
Science, and Transportation, Washington,
DC.

Hon. KAY BAILEY HUTCHISON,
Ranking Member, Senate Committee on Commerce,
Science, and Transportation, Wash-
ington, DC.

DEAR CHAIRMAN ROCKEFELLER AND RANKING MEMBER HUTCHISON: The Open Internet Coalition ("OIC") respectfully submits this letter to indicate our opposition to a vote under the Congressional Review Act to vacate the Federal Communications Commission's Open Internet Order, which would preclude any future action in this area by the Commission.

The OIC believes that such a vote would hurt consumers and innovation, and respectfully asks the Senate to reject the CRA measure.

Sincerely,

THE OPEN INTERNET COALITION.

OCTOBER 12, 2011.

Majority Leader HARRY REID,
Minority Leader MITCH MCCONNELL
U.S. Senate,
Washington, DC.

Chairman JAY ROCKEFELLER,
Ranking Member KAY BAILEY HUTCHISON,
U.S. Senate Committee on Commerce, Science
and Transportation, Washington, DC.

DEAR MAJORITY LEADER REID, MINORITY LEADER MCCONNELL, CHAIRMAN ROCKEFELLER, AND RANKING MEMBER HUTCHISON: We, as leaders and communicators representing many diverse religious traditions, write to share our strong support for Internet freedom. Specifically, we support the Federal Communication Commission's Open Internet rules and urge you to oppose S. J. Res 6 which would repeal these rules using the Congressional Review Act. These rules are important for underserved communities as well as the faith community.

The Internet is a critical tool for non-profits and other institutions nationwide. In particular, institutional networks such as health care providers and institutions of higher learning, as well as social service agencies and community organizations use the Internet for communication, organizing, and learning. The Internet is an increasingly important tool that helps needy persons access the education and services they need to improve their lives and the lives of their families. In these difficult economic times, the Internet is an essential tool for those seeking to get back on their feet.

Not only are the open Internet rules important for those the faith community serves, it is important for the religious community itself. As the National Council of Churches Communications Commission recently stated, Internet communication is "vital" to faith groups to enable them to communicate with members, share religious and spiritual teachings, promote activities on-line, and engage people—particularly younger persons—in their ministries. As the resolution noted, "Faith communities have experienced uneven access to and coverage by mainstream media, and wish to keep open the opportunity to create their own material describing their faith traditions." Without robust open Internet protections, our essential connection to our members and the general public could be impaired. Communication is an essential element of religious freedom: we fear the day might come when religious individuals and institutions would have no recourse if we were prevented from sharing a forceful message or a call to activism using the Internet.

We are particularly concerned about the way Congress has chosen to address this issue. Members of Congress have already initiated action under the Congressional Review Act to eliminate all open Internet protections. Even for legislators who might not agree with every aspect of the FCC's new rules, the proposed use of the Review Act is extreme.

After many months of public hearings and reviewing thousands of public comments, the FCC last December sought to strike a balance between the needs of Internet providers and the general public. The agency's compromise rules were designed to guard against the most severe forms of abuse. The result was a set of regulations that competing parties in the industry and public sector were able to support. A number of the new rules are critical to ensuring that all citizens can gain access to high speed Internet.

Among other things, the new disclosure rules will make it easier for low-income families to choose an Internet provider at a price they can afford.

In addition to new policies, the rules adopted last year reestablished a number of non-controversial common-sense FCC policies, including protecting the right of an Internet user to access any lawful Internet content. If the Review Act is used to void the FCC regulations, not only would it restrict the FCC's ability to protect Internet users in the future, it would also dismantle even these limited and essential protections put in place during the Bush Administration.

We hope that the House and Senate will reject the use of the Congressional Review Act to overturn these important rules. We hope that Congress will instead work to preserve openness online, and to ensure that all people, particularly people of faith, are able to take full advantage of the power of the Internet.

Sincerely,

Andrea Cano, Chair, United Church of Christ, OC Inc.; Rev. Robert Chase, Founding Director, Intersections International; Barb Powell, United Church of Christ, Publishing, Identity, and Communication; Rev. Dr. Ken Brooker Langston, Director, Disciples Justice Action Network; Reverend Peter B. Panagore, First Radio Parish Church of America; Gradye Parsons, Stated Clerk, Office of the General Assembly Presbyterian Church (USA); Dr. Riess Potterveld, President, Pacific School of Religion; The Rev. Eric C. Shafer, Senior Vice President, Odyssey Networks; Dr. Sayyid M. Seyed, National Director, Office for Interfaith & Community Alliances, Islamic Society of North America; Jerry Van Marter, Director, Presbyterian News Service, Presbyterian Church, Chair, Communications Commission, National Council of Churches; Linda Walter, Director, The AMS Agency, Seventh-day Adventist Church.

THE LEADERSHIP CONFERENCE
ON CIVIL AND HUMAN RIGHTS,
Washington, DC, October 12, 2011.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.

Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate,
Washington, DC.

Hon. JOHN D. ROCKEFELLER, IV,
Chairman, U.S. Senate,
Washington, DC.

Hon. KAY BAILEY HUTCHINSON,
Ranking Member, U.S. Senate,
Washington, DC.

DEAR MAJORITY LEADER REID, MINORITY LEADER MCCONNELL, CHAIRMAN ROCKEFELLER, AND RANKING MEMBER HUTCHINSON: on behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States, along with the undersigned organizations, we write to urge you to oppose the use of the Congressional Review Act (CRA), S. J. Res. 6, to repeal the Federal Communication Commission's (FCC) Open Internet rules. Though the organizations represented by this letter have taken different views on the Open Internet rules, we are united in the view that congressional plans to overturn these rules using the CRA would cause significant harm, particularly to the constituencies represented by our organizations, and divert attention from other critical media and telecommunications issues that are so vital to our nation's economic and civic life.

The CRA, 5 U.S.C. 801–808, is a blunt instrument. The terms of the Act require complete repeal of the agency action in question in a simple “yes or no” vote. For this reason, use of the CRA would mean that critical long-established protections will be repealed along with newer proposals adopted for the first time in December. Use of the CRA would eliminate the FCC’s authority to enforce its reasonable Open Internet principles, including those that prevent private blocking of constitutionally-protected speech.

A free and open Internet is of particular concern to civil rights organizations because the Internet is a critical platform for free speech. It is also a tool for organizing members and for civic engagement; a chance for online education and advancement which is essential to economic development and job creation; a means by which to produce and distribute diverse content; and an opportunity for small entrepreneurs from diverse communities who might not otherwise have a chance to compete in the marketplace.

As you know, the FCC adopted Open Internet rules in December after an extensive and detailed process. As a result, the Commission for the first time adopted a set of enforceable rules that many diverse parties agree will protect against severe abuse, promote free expression on the Internet, and encourage job-creating investment in broadband networks. These rules include a number of non-controversial commonsense policies, such as the right of a consumer to reach any lawful content via the Internet while preserving network providers’ ability to manage their networks. The rules adopted in December will help get all Americans online: for example, consumers with low incomes will be better able to select a service at a price they can afford under the Commission’s new transparency rules.

We also urge Congress and the Commission to move forward on other critical media and telecommunications policy initiatives. As we explained to the FCC last fall, we believe it is critical for the Commission to renew its focus on expanding broadband adoption among people of color; closing the digital divide; extending universal service support to broadband services; adopting provisions to protect consumer privacy; and implementing the 21st Century Communications & Video Accessibility Act of 2010.

In closing, we strongly urge you to oppose use of the Congressional Review Act to repeal the Federal Communications Commission’s Open Internet rules. We also hope that Congress and the Commission will move forward expeditiously to implement the National Broadband Plan to expand deployment and adoption of new technologies and high-speed Internet for all Americans. Should you require further information or have any questions regarding this issue, please contact The Leadership Conference Media/Telecommunications Task Force Co-Chairs, Cheryl Leanza, at 202-904-2168, Christopher Calabrese, at 202-715-0839, or Corrine Yu, Leadership Conference Managing Policy Director, at 202-466-5670.

Sincerely,

American Civil Liberties Union; Common Cause; Communications Workers of America; Disability Rights Education & Defense Fund; NAACP; The Leadership Conference on Civil and Human Rights; National Hispanic Media Coalition; National Organization for Women; United Church of Christ, Office of Communication, Inc.

ASSOCIATION OF RESEARCH LIBRARIES,

October 14, 2011.

Hon. HARRY REID,
Majority Leader, U.S. Senate.

Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate.

Hon. JAY ROCKEFELLER,
Chairman, U.S. Senate Committee on Commerce,
Science and Transportation.

Hon. KAY BAILEY HUTCHISON,
Ranking Member, U.S. Senate Committee on
Commerce, Science and Transportation.

DEAR LEADER REID, LEADER MCCONNELL, CHAIRMAN ROCKEFELLER, AND RANKING MEMBER HUTCHISON: The American Library Association (ALA), the Association of Research Libraries (ARL), and EDUCAUSE respectfully ask you to oppose S.J. Res. 6 and any other legislation to overturn or undermine the “Net Neutrality” decision adopted by the Federal Communications Commission (FCC) in December 2010.

ALA, ARL and EDUCAUSE believe that preserving an open Internet is essential to our nation’s educational achievement, freedom of speech, and economic growth. The Internet has become a cornerstone of the educational, academic, and computer services that libraries and higher education offer to students, teachers, and the general public. Libraries and higher education institutions are prolific generators of Internet content. We rely upon the public availability of open, affordable Internet access for school homework assignments, distance learning classes, e-government services, licensed databases, job-training videos, medical and scientific research, and many other essential services. It is crucial that the Internet remains a “network neutral” environment so that libraries and higher education institutions have the freedom to create and provide innovative information services that are central to the growth and development of our democratic culture.

The following data points illustrate why open, non-prioritized Internet access is so critically important to the public that we serve:

a. 80% of college students live off-campus. Net neutrality is vitally important so that these students receive the same quality of access to web-based information as on-campus students;

b. 97% of public two-year colleges have on-line distance education programs;

c. 99% of public libraries provide patrons with access to the Internet at no charge; in 65% of communities, public libraries are the only provider of such access.

The attachment to this letter provides several specific examples of critical Internet-based applications that our communities have developed to serve students, teachers, the elderly, the disabled and other members of the public. As these examples demonstrate, libraries and higher education increasingly depend on the open Internet to fulfill our missions to serve the general public. Without an open and neutral Internet, there is great risk that prioritized delivery to end users will be available only to content, application and service providers who pay extra fees, which would be an enormous disadvantage to libraries, education, and other non-profit institutions. In short, Internet Service Providers (ISPs) should allow users the same priority of access to educational content as to entertainment and other commercial offerings.

The FCC’s Net Neutrality decision last December was an important step forward. The decision includes a non-discrimination standard for wireline Internet services, and it limits the opportunities for paid prioritization. The FCC’s decision also explicitly protects the rights of libraries, schools, and other Internet users. While the

FCC’s decision falls short in some other areas, particularly with regard to mobile wireless services, the decision appropriately requires ISPs to keep the Internet open to educational and library content.

For these reasons, ALA, ARL and EDUCAUSE believe that the FCC’s decision should be upheld and it should not be overturned by Congressional action. While the FCC’s decision can certainly be improved, we strongly believe that the FCC should be able to oversee the broadband marketplace and respond to any efforts by ISPs to skew the Internet in favor of any particular party or user. The Internet functions best when it is open to everyone, without interference by the broadband provider. We urge you to uphold the FCC’s authority to preserve the openness of the Internet and to oppose any proposal to overturn or undermine the FCC’s Net Neutrality decision.

Respectfully Submitted,

LYNNE BRADLEY,
American Library Association (ALA).

GREGORY A. JACKSON,
EDUCAUSE.

PRUDENCE S. ADLER,
Association of Research Libraries (ARL).

AMERICAN ASSOCIATION
OF INDEPENDENT MUSIC,
New York, NY, November 4, 2011.

Hon. JAY ROCKEFELLER,
Chairman, Committee on Commerce, Science &
Transportation, Hart Senate Office Building,
Washington, DC.

Hon. KAY BAILEY HUTCHISON,
Ranking Member, Committee on Commerce,
Science & Transportation, Russell Senate
Office Building, Washington, DC.

Hon. HARRY REID,
Majority Leader, Hart Senate Office Building,
Washington, DC.

Hon. MITCH MCCONNELL,
Minority Leader, Russell Senate Office Building,
Washington, DC.

DEAR SENATORS, The American Association of Independent Music (A2IM) is a non-profit organization representing a broad coalition of independently owned music labels from a sector that comprises more than 30 percent of the music industry’s U.S. market, nearly 40 percent of digital sales, and well over 80 percent of all music released by music labels in the U.S. A2IM’s label community includes music companies of all sizes throughout United States, from Hawaii to Florida and all across our country, representing musical genres as diverse as our membership.

Unfortunately, economic reward has not always followed critical success due to barriers to entry for independents in both promotion and commerce. A2IM members share the core conviction that the independent music community plays a vital role in the continued advancement of cultural diversity and innovation in music at home and abroad, but we need your help.

Of all the technological developments in recent history, the Internet represents the most potent platform for entrepreneurship and expression our community has witnessed. Despite the many unresolved questions surrounding the protection of intellectual property online, we remain optimistic that open Internet structures are our best means through which to do business, reach listeners and innovate in the digital realm.

Independent labels would not fare well under any regime that allows Internet traffic to be prioritized based on business arrangements between ISPs and the largest corporate entities, as our sector is not capable of competing economically. This is why we have consistently gone on record in favor of

clear, enforceable rules of the road for the Internet, whether accessed on personal computers or mobile devices.

We are not convinced that the FCC's recent Order goes far enough to preserve the dynamics that make the Internet such a unique and promising marketplace for creative commerce. We are particularly concerned about the lack of clarity in the mobile space, as well as the possibility of our sector being priced out of the most desirable online delivery mechanisms.

Nonetheless, it seems shortsighted for Congress to seek to eliminate the FCC's ability to oversee this vital space, as it is an essential part of a free market driven by enterprise, ingenuity and competition. We therefore urge the United States Senate to forego any attempt to stymie the FCC's authority to preserve the underlying dynamic of the Internet.

Sincerely,

THE AMERICAN ASSOCIATION
OF INDEPENDENT MUSIC (A2IM).

FUTURE OF MUSIC COALITION,

Washington, DC, November 4, 2011.

Hon. JAY ROCKEFELLER,

Chairman, Committee on Commerce, Science & Transportation, Hart Senate Office Building, Washington, DC.

Hon. KAY BAILEY HUTCHISON,

Ranking Member, Committee on Commerce, Science & Transportation, Russell Senate Office Building, Washington, DC.

Hon. HARRY REID,

Majority Leader, Hart Senate Office Building, Washington, DC.

Hon. MITCH MCCONNELL,

Minority Leader, Russell Senate Office Building, Washington, DC.

DEAR SENATORS, Since its inception, the internet has represented a powerful tool for the exchange of information and ideas. In recent years, it has also contributed greatly to the emergence of novel platforms for the dissemination of creative content. It is as members of the arts community who have come to depend on these structures that we write to you today.

Creators, in particular, depend on open internet structures to engage in a variety of ways, including direct interaction with audiences, fans and patrons, as well as collaboration with other artists. From musicians to filmmakers to writers to independent labels to arts and service organizations, today's creative community depends on the internet to conduct business and contribute to the rich tapestry that is American culture.

Today's creators are taking advantage of technologies fostered by the internet to deliver a diverse array of content to consumers, while creating efficient new ways to "do for ourselves" in terms of infrastructure. The access and innovation inspired by the web helps us meet the challenges of the 21st century as we contribute to local economies and help America compete globally.

It hasn't always been so. Traditionally, the media landscape relied heavily on hierarchical chains of ownership and distribution, controlled by powerful gatekeepers such as large TV and movie studios, commercial radio conglomerates, major labels and so forth.

It would be tremendously disadvantageous to creative entrepreneurship if the internet were to become an environment in which innovation and creativity face tremendous barriers to entry due to business arrangements between a select few industry players.

This is why we support clear, enforceable and transparent rules to ensure that competition and free expression can continue to flourish online. Although many of us feel strongly that the recent FCC Order does not go far enough in its protections (particularly

with regard to mobile broadband access), we recognize the importance of having a process in place by which concerns can be addressed and transparency pursued.

We believe that Congress has a role to play in establishing guidelines that preserve a competitive, accessible internet where free expression and entrepreneurship can continue to flourish. We also believe that stripping the FCC's ability to enforce these core principles as proposed in S.J. Res. 6 runs counter to the values shared by members on both sides of the aisle, as well as prior and current FCC leadership. Therefore, we strongly urge against a broad repudiation of the Commission's Order.

Sincerely,

FRACTURED ATLAS.
FUTURE OF MUSIC
COALITION.
NATIONAL ALLIANCE FOR
MEDIA ARTS AND
CULTURE.

OCTOBER 13, 2011.

Hon. HARRY REID,

Senate Majority Leader, Hart Senate Office Building, Washington, DC.

Hon. MITCH MCCONNELL,

Senate Minority Leader, Russell Senate Office Building, Washington, DC.

Hon. JOHN D. ROCKEFELLER,

Chairman, Russell Senate Office Building, Washington, DC.

Hon. KAY BAILEY HUTCHISON,

Ranking Member, Dirksen Senate Office Building, Washington, DC.

DEAR MAJORITY LEADER REID, MINORITY LEADER MCCONNELL, CHAIRMAN ROCKEFELLER, AND RANKING MEMBER HUTCHISON:

The below signed organizations support an Open Internet and oppose S. J. Res 6, legislation that would repeal the Federal Communication Commission's (FCC) Open Internet rules through the Congressional Review Act. Utilizing the Congressional Review Act would not only eliminate the current FCC rules, it would eliminate the FCC's ability to protect innovation, speech, and commerce on broadband platforms on behalf of the American people.

The Internet has been and must remain an open platform. Regardless of political or social values, an Open Internet increases opportunities for all persons and communities, increases diversity of opinions and thought, and ensures that consumers and entrepreneurs alike can engage in and benefit from the opportunities afforded by access to the Internet. An Open Internet is also an engine for economic growth, innovation, and job creation.

The FCC has adopted a framework that the agency believes will preserve the Open Internet. We wholeheartedly support preservation of the FCC's authority to implement such rules. This framework was adopted in a proceeding in which broadband service providers, Internet companies, civil rights groups, labor organizations, and public interest groups all participated.

We urge Congress not to utilize the Congressional Review Act, given the negative consequences of its enactment. Instead, we hope that Congress will work to preserve openness online and to move forward expeditiously in implementation of the National Broadband Plan. Undertaking such initiatives would improve broadband deployment and adoption opportunities for all Americans, including individuals in typically rural and other underserved populations and in communities of color too often denied a meaningful opportunity to participate in the new economy.

For these reasons, we urge you to ensure that all your constituents can continue to benefit from an Open Internet, and we stand

ready to work with Congress to preserve an Open Internet.

Respectfully submitted,

Access Humboldt; ACLU; AFL-CIO; Alliance for Community Media; Alliance for Retired Americans; Applied Research Center; Arizona Progress Action; Art is Change; Association of Free Community Papers; Association of Research Libraries; Bold Nebraska; Breakthrough.tv; CCTV Center for Media and Democracy; Center for Democracy and Technology; Center for Media Justice; Center for Rural Strategies; Center for Social Inclusion; Coalition of Labor Union Women; Communications Workers of America; Community Media Workshops.

Consumer Federation of America; Consumers Union; Democracy for America; Durham Community Media; Esperanza Peace and Justice Center; Evanston Community Media Center; Free Press; Future of Music; Coalition; Global Action Project; Harry Potter Alliance; Highlander Research & Education Project; Houston Interfaith Worker Justice; Institute for Local Self Reliance; International Brotherhood of Electrical Workers; Keystone Progress; Labor Council for Latin American Advancement; LAMP; Latinos for Internet Freedom; Latino Print Network; League of United Latin American Citizens.

Line Break Media; Main Street Project; Media Access Project; Media Mobilizing Project; Mid-Atlantic Community Papers Association; NAACP; National Alliance for Media, Art, and Culture; National Consumers League; National Hispanic Media Coalition; National Latino Farmers and Ranchers Trade Association; National Network for Immigrant and Refugee Rights; Native Public Media; New America Foundation; Ohio Valley Environmental Coalition; One Wisconsin Now; OnShore Networks; Open Access Connections; Open Source Democracy Fund.

Participatory Culture Foundation; Peoples Press Project; Peoples Production House; Philly CAM; Progress Now; Progress Now Nevada; Progress Ohio; Prometheus Radio Project; Public Radio Exchange; Reel Grrls; Southwest Organizing Project; Southwest Workers Union; The Highlander Research & Education Center; The Peoples Channel; The Praxis Project; The Writers Guild of America; West UNITY Journalists of Color; Women In Media & News; Youth Media Project.

Mr. ROCKEFELLER. Mr. President, to be sure, there are those who disagree with the FCC's open Internet rules, and there is an avenue for these complaints. It is called the judicial system. Some are using it. Two companies have filed lawsuit claiming that the FCC went too far. Several public interest groups have filed lawsuits claiming that the FCC did not go far enough. It is their legal right to go to the courts, and when they choose to do that, they can do so.

So let's think for a minute what a world would look like without a free and open Internet.

In a world without a free and open Internet, consumers and entrepreneurs would have no transparency as to how their broadband providers would manage their network—no ability to make informed decisions about their broadband providers.

In a world without a free and open Internet, there would be nothing to prevent their broadband providers from steering them only their preferred Web sites and services, therefore limiting their choices as consumers.

For rural Americans, broadband Internet access has the power to erase distances and allows them to have the same access to shopping, educational matters, and employment opportunities as those living in urban areas. That is a time-honored principle around here—but not if the Web site they seek to access is blocked by their broadband providers. Consumers, entrepreneurs, and small businesses need the certainty they can access lawful Web sites of their choice when they want, period.

In a world without a free and open Internet, there would be nothing to stop broadband providers from blocking access to Web sites that offer products that compete with those of its affiliates. That happens, Mr. President.

In a world without a free and open Internet, companies could pay Internet providers to guarantee their Web sites open more quickly than their competitors.

In a world without a free and open Internet, companies could pay Internet providers to make certain their online sales are processed more quickly than their competitors with lower prices.

Well, that is not the American way. This is particularly disturbing in tough times like these.

In a world without a free and open Internet, there would be nothing to prevent Internet service providers from charging users a premium in order to guarantee operation in the “fast lane.” If someone is trying to start a small business, struggling to make ends meet and cannot afford to pay the toll, they run the risk of being left in the “slow lane”—that is not good—with inferior Internet service—that is not right—unable to compete with larger companies. That is very wrong.

What if an innovator or a start-up company has the next big idea? With broadband, the next big idea does not have to come from a suburban garage or from Silicon Valley, it can come from rural America or from anywhere. A free and open Internet is all that is required to give that big idea a global reach.

In a world without a free and open Internet, the ability of the next revolutionary idea to reach others—to make it to the greater marketplace—would be entirely dependent on a handful of entrenched broadband gatekeepers and toll collectors. True.

I am not totally opposed to the Congressional Review Act, but I have to say it is an extraordinarily blunt instrument. It means all of the rules adopted by the FCC must be overturned at once. This would even mean tossing out commonsense provisions about transparency. Do our opponents know this? It would deny the agency the power to protect consumers. Do our opponents know this? What is the sense in all of that? I don't get it.

There is another part: If they just took these rules out—if S. Res. 6 were to pass—they couldn't come back later and just have the FCC put them in. We

would have to go through a whole congressional legislative process to reinsert them into the Public Law, which means many of them would never end up there.

I also want to address the argument of supporters of the joint resolution that the FCC's open rules will somehow stifle innovation in the Internet economy. That is just so wrong I don't know what to say.

Over the past 15 years, the open Internet has been the greatest engine for the U.S. economy. It leaves everything in its dust. It has created more than 3 million jobs, as the Senator from Texas indicated. The open Internet rules will help sustain this growth. People want to know what the rules of the road are. They want to know what the world is bringing to them. If they decide they do not like what is coming, they are going to tell you, and they are not going to invest. Very simple.

According to Hamilton Consultants, the open Internet ecosystem has led to the creation of 1.8 million jobs related to applications in e-commerce, as well as 1.2 million jobs related to infrastructure. Moreover, investment and innovation have continued to increase since the adoption of the FCC's open Internet rules—not decrease, as the supporters of this resolution will tell us.

The facts show that investment in broadband networks increased in the first half of 2011. In fact, investment in networks that support broadband was more than 10 percent higher in the first half of 2011 than in the first half of 2010. More of that investment in Internet companies surged in 2011, and this is after they had sort of adjusted or taken into account what they saw coming in the way of the rules. There was \$2.3 billion worth of investment going into 275 companies in the second quarter, and all of them were this Internet type. That is the most investment in Internet companies in a decade.

Plus, shortly after the framework was adopted, America's leading wireless providers announced they were accelerating their deployment of their advanced fourth generation, or 4G networks. It seems the open Internet rules are giving broadband providers and entrepreneurs and investors the certainty they need to invest and to create jobs.

Certainty is the key. They are not going to invest in what they do not know. We see that in so many other areas. They do not know what is going to happen, so they do not invest. People have all this cash, but they do not have certainty. Here they have certainty, they understand that certainty, they understand what is coming, they like it, and they are investing like never before.

The FCC's open Internet rules also protect small businesses. An estimated 20,000 small businesses operate on the Internet. More than 600,000 Americans have part- or full-time businesses on eBay alone. I was not aware of that. The FCC's open Internet rules mean small entrepreneurs will not have to

seek permission from broadband providers to reach new markets and consumers with innovative products and services.

This is a very important point. It means small businesses can be located anywhere in this country, including rural America, and through open broadband have the opportunity for their ideas and products and services to have a global reach. That is the point of all of this.

As we all know, small businesses were responsible for nearly 65 percent of new jobs over the past 15 years. Far from preventing investment, the FCC's open Internet rules will foster small businesses because they trust it. They see it, they see what Moody's is saying about it, they see what the Wall Street investment bankers are saying about it, they see it is encouraging investment, and they like and trust that. So they take risks they might not otherwise take because they trust.

It is not the faceless Federal bureaucrat. It is something that is down on paper and they understand it. They have probably seen it and probably commented on it. Maybe some of them didn't like it as much as they should have; maybe some thought it should have been stronger or some thought it should have been weaker, but such is life in America. So, anyway, I think what they conclude is that what is going on is supporting what they are doing.

Finally, I want to note when it comes to education and privacy and intellectual property, global Internet governance, or network security, the government has long provided—and necessarily so—reasonable rules of the road to make possible consumer protection, fair trade, and open markets. The FCC's open Internet rules are no different. They take, as has been quoted by many, a light-touch approach—I like that phrase—and keep the playing field fair. They keep the Internet open and free for consumers, for businesses, and for everyone in this country who wants access to broadband Internet.

So that is why I support the FCC open Internet rules, and I encourage my colleagues to vote against the joint resolution.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, on our side I have Senator WICKER and Senator SHELBY, who have been here waiting, and I would like to give them 15 minutes from the time on our side. I know there are others here, but these Senators have been waiting for quite a while.

The PRESIDING OFFICER. Is that 15 minutes each or 15 minutes together?

Mrs. HUTCHISON. Up to 5 minutes for Senator WICKER and up to 10 minutes for Senator SHELBY.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Mr. President, what would be the order after that?

The PRESIDING OFFICER. There is no order after that.

Mr. KERRY. Mr. President, I ask unanimous consent that I be recognized for the time I have—I think it is about 15 minutes—after that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Mississippi.

Mr. WICKER. Mr. President, I rise as a cosponsor and strong supporter of this resolution of disapproval.

Once again, we are witnessing a government regulation we do not need. There is a reason when we talk about today's economy that we talk about the cost of government overreach. Unnecessary regulations put a wet blanket on job creation, and they work against getting our economy back on track. This is a perfect example of the government standing in the way of growth and investment.

The Internet and its associated applications should be allowed to develop without excessive FCC redtape. The Internet owes a great deal of its rapid success to innovators and entrepreneurs who had the freedom to imagine, to explore, and to create. With the FCC acting as a traffic cop, this freedom will be compromised.

The subjective rules of the road, as laid out by the FCC, are a prescription for uncertainty within the industry. By handing over more power to a government agency, net neutrality rules slam the brakes on potential investment and new innovation. The ideas that should make our Internet faster, more secure, and better for consumers fall by the wayside. At the end of the day, the American consumer would suffer. The broadband marketplace would simply offer fewer services, fewer devices, and less content to paying customers.

The FCC order reads that Internet providers "shall not block lawful content, applications, services or non-harmful devices, subject to reasonable network management." It goes on to say that providers "shall not unreasonably discriminate in transmitting lawful network traffic over a consumer's broadband Internet access service."

But the terms "lawful" and "reasonable" are not easily defined. Under the order, what is lawful and what is reasonable would be determined by unelected bureaucrats. The FCC would rule as a de facto police of the open and free Internet. The FCC would be the final arbiter of what broadband service providers can and cannot do. Its judgments—not the market or the consumer—would determine how networks would be managed. The FCC is claiming to have an authority that the American public did not grant it.

The hands of the Internet service providers will be tied when the FCC has this kind of power. Without being able to run their own networks, service providers cannot maximize the online experience for the vast majority of their customers. They are, in essence, prevented from doing what they were established to do.

Equally troubling is that the Commission's order is trying to fix a problem that does not exist. Today's consumers have greater access to more Internet services than ever before. Where is the problem? Businesses have invested tens of billions of dollars in new broadband infrastructure. Internet entrepreneurs continue to offer new services to broadband users. There is no economic justification for this unprecedented intrusion into the marketplace. Policy should benefit the public, and these FCC rules do not.

In conclusion, we have seen this movie before, with regulation where regulation is not needed. Again, here we have a regulatory recipe that would produce far-reaching and damaging effects. The current landscape has allowed the Internet to grow exponentially. It is a free market of competition, productivity, and growth. The FCC's regulatory intrusion is completely unwarranted.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Alabama.

Mr. SHELBY. Mr. President, I wish to associate myself with the remarks of the Senators from Texas and Mississippi and to say that I think a lot of people probably mean well but are often misguided when they say we are going to regulate this sector of the economy or we are going to regulate that.

The market, as you well know, is the driving force in our economy—not just in the United States but worldwide. It is going to be the market that will decide what we do as far as job creation for our people everywhere, and I believe the Internet is an example of, gosh, let's don't overregulate it. Let it grow, let it do its job, and it will.

I would also like to speak about some commonsense steps that Congress can take right now to help our struggling economy. At a time when job growth is stagnant, Congress needs to lift the regulatory burden that is stifling capital formation. The Senate has before it several bills that would help private businesses raise the capital they need to grow and to create jobs.

This is an issue that should enjoy the support of both Republicans and Democrats in the Senate. Access to capital, as the Presiding Officer well knows, is what allows entrepreneurs to transfer new ideas into living companies. Novel products, new services, and, most importantly, good jobs can be created.

Unfortunately, overregulation has made it progressively harder for small businesses to access capital in this country. I will give some statistics. They are clear.

In the 1990s, an average of 547 initial public offerings took place each year, compared with an average of just 192 per year after 1999. Small initial public offerings now make up only 20 percent of the total. In contrast, they made up 80 percent of the total in the 1990s, when we were creating so many small jobs.

In addition, the number of new businesses being launched each year is falling. In 2010, it was the lowest it has been since the Bureau of Labor Statistics started tracking the number in 1994.

The SEC has been slow to address these problems, even though it has the authority to do so. The Chairman of the SEC has spoken of the need for action, but we have not seen tangible results yet.

One year ago, one SEC Commissioner remarked:

My hope is that, as an agency, the Commission will move beyond talking about small business capital formation and will take concrete steps that actually foster it.

I believe we, the Senate and the American people, can no longer wait for the SEC to do its job. The time has come for Congress to take action. Our economy cannot afford to wait any longer.

The first thing I believe we should do to improve capital formation is to bring up for consideration several bipartisan bills that would implement important regulatory reforms. One bill would modernize the SEC's regulation A, which was initially designed to make it easy for small businesses to access our capital markets. Unfortunately, regulation A is outdated and rarely used.

Another set of bills would raise the thresholds for reporting so small banks and small companies are not subject to burdensome SEC reporting requirements.

These bills would still leave investors protected and ensure that public companies provide meaningful disclosure. Most important, investors would still be protected by the SEC's antifraud rules. These bipartisan bills represent a few steps we can take right now, but they are not comprehensive by any means.

Much more needs to be done to make sure registration requirements are tailored to the size and type of businesses. The existing one-size-fits-all approach means that small companies have to bear the same costs that large companies do when they go public. These inequities need to be addressed; it stifles job creation.

One would think that we could agree in the Senate on removing unnecessary restrictions on capital formation. Yet for the past 3 years, the majority party has dramatically increased government involvement in the economy. They have imposed one costly mandate after another on businesses. They have crowded out the private sector with massive government programs, resulting in persistently high unemployment and stagnant economic growth.

Basically, I think it is time for a new approach. It is time to revitalize the free markets in America. We can begin this effort by taking these small steps to help entrepreneurs find the capital they need to build their businesses and to create jobs.

I hope my Democratic colleagues will now do more than talk about creating

jobs and that we can work on a bipartisan basis on these bills that have bipartisan sponsorship to create jobs and join us here.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, this is one of those times when, on the floor of the Senate, we hear a proposal that people characterize as one thing, but it is, in fact, anything but what they are characterizing it as.

What I just heard the good Senator from Mississippi talking about: We don't want to slam the brakes on development, he said. We don't want to have the SEC intrusion.

So they are trying to say to the American people that they want to liberate the Internet, when, in fact, what they want to do is imprison the Internet within the hands of the most powerful communications entities today to act as the gatekeepers who will control the ability of the Internet to do the very kind of development that brought us here. What they are talking about, their concept, this CRA challenge is that wolf in sheep's clothing. It is that simple. So I think colleagues need to step back and think about how the Internet got to be what it is today when it was developed.

I know the Senator from West Virginia, the chairman of the committee, and I were members of the Commerce Committee back in the 1990s when we wrote the Telecommunications Act of 1996, and we thought we were pretty clever and we wrote a good act. Within 6 months of writing that act, it was obsolete because all our conversation was about telephony at a moment where, because of the Internet, the entire discussion was about to become about data transmission and the movement of information over the Internet. That has never been fully revisited. But the reason we have a Google today, the reason we have had this incredible development of Internet retail business, of all these Web sites, of Facebook, and so many more is because of the open architecture of access to that Internet—which, I would remind everybody in America, was created by government money in government research. It came out of an effort to develop a communications system for our country in the case of nuclear war. So we created, through DARPA, ARPA, research that produced this communications network. Then the private sector saw the opportunity, and a whole bunch of very creative people rushed in and made the Internet what it is today.

Overturning the rules, as the CRA proposes to do, would put the very open architecture that has created this extraordinary agent of communication, of commerce, and family communication, and all these things it has done for business, it would put it at risk and discourage investment in companies at the edge of the Internet that could be the next Google or the next Amazon. Overturning these rules would actually hurt our competitiveness and economic

growth and they would diffuse the creative energy that has driven the Internet to be what it is today. Because if we overturn what they are doing today, we take the reality of the Internet and we put it in the hands of the gatekeepers.

Everything that goes over the Internet today goes either through our telephone at home or television or whatever, through cable, out of our house or the airwaves. But if we are not having an open architecture on the Internet, then the people who control those access points can start discriminating about who gets access at what speed; and if they control who gets access at what speed and begin to charge more for that, you begin to have a profound impact on the ability of any business to develop and a profound impact on the access that consumers have come to anticipate with respect to the Internet.

Think about this. We are talking about neutrality. We are standing here trying to defend neutrality. The other side is coming in here trying to create a new structure where the process will be gamed once again in favor of the most powerful. This is part of the whole debate that is going on in America today, about the 99 percent who feel like everything is gamed against them and the system is geared by the people who have the money and the people who have the power who get what they want. That is what this debate is about.

The network neutrality rules the FCC has promulgated are based on the principles that everybody should support of promoting transparency of broadband service operations, preventing the blocking of legal content and Web sites, and prohibiting discrimination of individuals, applications, and other Web sites. That is what we are for. This CRA is an effort to undo the FCC's ability to protect those principles.

Establishing those principles has actually brought about certainty and predictability to the broadband economy. It ensures that anyone can create a Web site, anyone can deliver an Internet-enabled service with the certainty that is going to be made available to everybody else on the Internet. Innovators now know they are not going to have to go ask a big telephone company: Hey, Verizon, hey AT&T, will you guys please let us have access so we can go do this thing? Oh, well, maybe we will do that, but we are going to charge you in order to do that. They completely destroy the openness that is provided, this ability for anybody in America to sit in their home or school or somewhere and come up with an idea and innovate. That freedom to innovate, the freedom to innovate is what has made the Internet the platform for economic and social development it is today, and a vote for the CRA is a vote to stifle that.

On the side of those favoring the FCC's action are venture capitalists

and the companies that have made the Internet what it is today, civil rights groups, civil liberties advocates, academics, scholars who have studied and testified to the virtues of open networks. Let me quote a few of them.

John Doerr is somebody whom many of us have come to know by virtue of his business acumen and the legendary venture capitalist efforts he was engaged in. He was an early backer of Amazon, an early backer of Google, Electronic Arts, Netscape, and a number of other innovators whose creations have driven the growth of the Internet. Here is what he says:

Maintaining an open Internet is critical to our economy's growth . . . and this effort is a pragmatic balance of innovation, economic growth, and crucial investment in the Internet.

Ray Ramsey, the president and CEO of TechNet, a national bipartisan network of more than 400 technology sector CEOs, said of the vote at the Commission in favor of the network neutrality rules:

The vote by the FCC is a pragmatic recognition of the need for codifying principles for protecting nondiscrimination and openness for the Internet.

Charlie Ergen, the president and CEO of Dish Network, said:

The Commission's order is a solid framework for protecting the open Internet. The new rules give companies, including Dish Network, the framework to invest capital and manpower in Internet-related technologies without fear that our investment will be undermined by carriers' discriminatory practices.

Others supporting the order include the Communications Workers of America, civil rights organizations, consumer advocates. In sum, those who support the rules include those who fund the development of Internet companies, those who use the Internet, and advocates who favor open discourse and debate. I think we in the Senate ought to listen to the people who created it, the people who developed it, the people who are taking it to the next generation, and the people who use it.

The Los Angeles Times editorialized on Sunday in favor of the rules of the FCC, saying:

The agency's net neutrality rules are a reasonable attempt to protect the innovative nature of the Internet and should not be overturned.

Despite all of what I just said, some have made what I have called the "wolf in sheep's clothing" argument, the false argument that network neutrality rules regulate the Internet—that they actually regulate it—and this is an opportunity to keep it open and impose a condition on innovators.

I don't know how asking innovators to get permission from somebody else to be able to go do what they have already done since the 1990s is going to improve things. The truth is, network neutrality rules govern not the Internet but they govern the behavior of the firms that own and operate the gateways to the Internet. That is what is at stake. When the airwaves that carry

the information that connects us to everyone else in the Internet is in the hands of a few and subject to their control, we are in trouble.

The rules we are debating today state that those gateways should not be used to favor some voices over others or some firms over others on the Internet. That is what is at stake. That is what this fight is about. The truth is, if the rules are overturned, every innovator on the Internet will be exposed to the risk that, before they innovate, before they create a new product, they are going to have to go to somebody and say: Mother, may I do this? Then there will be a price attached to it.

Beyond the false argument that network neutrality constitutes regulation of the Internet rather than anti-competitive behavior, opponents to the rule predicted the FCC action was going to have negative economic repercussions. Yet even in an economy that has struggled, that prediction has proven to be wrong.

In the time since the FCC voted on the rule to preserve the open Internet, investment in networks that support wired and wireless broadband grew by more than 10 percent compared to the same period the year before. Venture capital investments in Internet-specific companies surged, with \$2.3 billion going into 275 companies in the second quarter of 2011. It may well be that 2011 is going to be the biggest year for tech IPOs in more than 10 years. That seems to indicate strong investor confidence in the companies that rely on the open Internet already exists, and we should not disrupt that.

Having lost the argument that network neutrality hurts innovation or the economy, they therefore want to create a new argument; that is, the FCC acted outside its legal authority in protecting the free flow of communication on the Internet.

A court, the right place for that decision to be made, is going to make that decision. But, again, the argument actually challenges common sense. It challenges the basic understanding of reasonableness. To argue that the FCC, the agency that Congress created in order to regulate communications by wire and radio, somehow has no jurisdiction in this very space is to argue that communications over the Internet are not, in fact, conducted over a wire or over the airwaves. It is completely lacking in any foundation in common sense and certainly in the law.

The law we created grants the FCC the authority in the Telecommunications Act to "make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary for its functions."

That is the power we gave to them. Under title II, title III, title VI of that act, it encourages the FCC to protect the public interest and encourage just and reasonable rates through competition. That is precisely what net neutrality achieves. It is precisely what we achieve under the rules of the FCC.

Under title VII, the FCC is mandated to take immediate action to remove barriers to infrastructure investment and promote competition in the telecommunications market if advanced telecommunications is not being deployed in a reasonable and timely fashion. That can be determined on a case-by-case basis, and we obviously can continue as we have since the early 1990s to do this. So there is no good reason for this debate to fall along party lines.

I hope it will not be just Democrats who vote to preserve this rule. I hope we will maintain an open Internet technology and support the open Internet order.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I know the Senator from Minnesota has been waiting to speak, and I certainly will yield to him. I would like to be recognized after he speaks to answer some of the concerns that were raised by the Senator from Massachusetts.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Minnesota.

Mr. FRANKEN. Madam President, I appreciate the courtesy of the Senator from Texas. My understanding is that Senator MURKOWSKI from Alaska is on her way down. I am scheduled to sit in the chair at 12, and I don't want to step on the opportunity of the Senator from Alaska to speak.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. FRANKEN. Madam President, I rise today to urge my colleagues to vote against the motion to proceed to the joint resolution of disapproval of Senator HUTCHISON, which would repeal the FCC's net neutrality rules.

As many of you know, I have repeatedly said net neutrality is the free speech issue of our time. I still believe that is the case, and I am here to state why we need to do everything we can to stop this partisan resolution in its tracks.

But before I get into the reasons we should oppose this resolution, I think it is important to step back and remember what the American people expect of us. I do not need to tell anyone in this body that the approval rating of Congress is at an all-time low. Why is that? I think it has something to do with the fact that we are using our extremely limited, valuable time to debate partisan proposals like this one rather than working together to create jobs, stimulate our economy, and get Americans back to work.

When this resolution of disapproval passed the House back in April, I hoped that would be the end of it. I hoped my colleagues would recognize we should let agencies do their jobs and not employ an arcane procedure to erase a rule the FCC started thinking about in 2004 under Republican chairman Michael Powell, and again in 2005 when a different Republican chairman, this

time Kevin Martin, adopted a unanimous policy statement on net neutrality.

When the White House issued a statement indicating the President would veto this resolution of disapproval if it came to his desk, I thought my colleagues would be sensible and would recognize that this was not only unnecessary and foolhardy, but it was also a pointless exercise and would be just a giant waste of everyone's time. Alas, that is not the case and here we are spending valuable time on two resolutions of disapproval when we should be turning to legislation that will get our economy back up and running again.

I hope the votes we take tomorrow will send a strong message that we need to stop these political stunts and work together to create jobs, jobs, and more jobs.

But let's get to the substance of why I am standing here before you today. I am here today to talk about net neutrality. Net neutrality is a simple concept. It is the idea that all content and applications on the Internet should be treated the same, regardless of who owns the content or the Web site. This is not a radical idea. It certainly is not a new one. We may not realize it, but net neutrality is the foundation and core of how the Internet operates every day and how it has always operated.

When scientists and engineers were creating the basic architecture of the Internet, they decided they needed to establish some basic rules of the road for Internet traffic. One of the fundamental design principles of the Internet was that all data should be treated equally, regardless of what was being sent or who was sending it. That is net neutrality. It is the same principle we rely on every day when we use the Internet, and it is the same principle our phone companies must adhere to when they connect our phone calls.

They did not discriminate based on what we say or whom we call, and the founders of the Internet thought the same should be true about data traveling across networks. Everything and everyone should be treated the same.

This principle of nondiscrimination is baked into the DNA of the Internet. This is not radical or new. This is about having a platform that is free and open to all, regardless of whether one is a big corporation or a single individual and regardless of whether one pays a lot of money to speed up how fast their content gets to their customers. Net neutrality is what we all experience today when we log on to our computers, and it is what we have always experienced since the very beginning of the Internet.

I think it is important to focus on that point for a minute because our opponents are telling us something quite different—and they are wrong. Net neutrality is not about a government takeover of the Internet, and it is not about changing anything. Net neutrality and the rules the FCC passed are about keeping the Internet the way it is today and the way it has always been.

We take for granted that we can access Google's search engine as easily as we can access Yahoo or Bing or that Netflix videos download as easily as the videos our friends uploaded onto YouTube last night. We expect that e-mails arrive at their destinations at the same speed regardless of who is sending them, and we take for granted that the Web site for our local pizzeria loads as fast as the Web site for Dominos or Pizza Hut. That is one of the reasons I care so very much about this issue.

This is not just about freedom of speech, it is also about protecting small businesses and entrepreneurs of all sizes. In my mind, net neutrality is and always has been about protecting the next Bill Gates and the next Mark Zuckerberg. Facebook and Microsoft do not need our help today, but the 20-year-old whiz kid working in his parents' garage to develop the app or software or Web site to revolutionize our lives does need net neutrality, and so does the small bookstore or local hardware store that wants their Web site to load just as fast as Amazon or Home Depot.

I have been on the floor of the Senate talking about the beginnings of YouTube because it is such a powerful example of why we need to protect net neutrality. When YouTube started, it was headquartered in a tiny space over a pizzeria and a Japanese restaurant in San Francisco, CA. At the time, Google had a competing product, Google Video, that was widely seen as inferior.

If Google had been able to pay AT&T or Verizon or Time Warner large amounts of money to block YouTube or to make Google Video's Web site faster than YouTube's site, guess what would have happened. YouTube would have failed. But, instead, thanks to net neutrality, YouTube became the gold standard for video on the Internet. YouTube was able to sell its business to Google for \$1.6 billion just 2 years after its start. I love that story because it is a testament to the power of the Internet to turn people with great ideas into overnight successes, and it happened because we had net neutrality.

The story of the Internet is a story about the triumph of the little guy over the big, slow-moving corporation. The past 20 years are littered with tales of entrepreneurs starting with next to nothing and revolutionizing the world as we know it. From YouTube's humble beginnings over a pizzeria to Facebook's infamous start in a dorm room in Cambridge, the Web-based products we use every day are a great result of a great idea and the drive to make that great idea a reality.

Here is what we will not hear from our opponents: Facebook and YouTube and countless other Web-based products might not have existed today if it were not for net neutrality. Without net neutrality, Myspace or Friendster—remember them—could have partnered with Comcast to gain

priority access or to block Facebook altogether. Blockbuster could have paid AT&T to slow down or completely block streaming of Netflix videos. Barnes & Noble could have paid Verizon to block access to amazon.com. Imagine a world where the corporation with the biggest checkbook can control what we see and how fast we access content on the Internet.

Fortunately, that is not the world we live in today and thanks to the FCC that is not the world we are headed for. The FCC's rules will ensure that no matter how much money or power they have, a young kid working in her parents' basement in Duluth can outinnovate the biggest corporation simply because she has the best idea. This is exactly why top Silicon Valley venture capital and angel investment companies support these rules. These companies are the ones funding the next Mark Zuckerberg, Larry Page or Sergey Brin so he can get his product off the ground. They are the ones funneling millions and millions of dollars to entrepreneurs, which is why I think we should listen to them. The CEOs of eBay, Netflix, Amazon, Facebook, and YouTube have joined in a letter supporting the FCC's rules. They say: "Common sense baseline rules are critical to ensuring that the Internet remains a key engine of economic growth, innovation and global competitiveness."

I think we should listen to them and companies such as Microsoft, Yahoo, Google, IBM, and Qualcomm. These companies also support the FCC's rules because they recognize they could not have grown to be the tremendously successful companies they are today without a free and open Internet, and that is what we are asking for. That is all we are asking for.

When our opponents get up and tell us these rules will stifle innovation and halt growth, I want everyone to think about what they are saying. I want us to ask ourselves: Why would so many of the leading technology companies over the last two decades support what the FCC is doing if they think it will hurt innovation? It doesn't make any sense because it isn't true. Net neutrality and the FCC rules will protect the innovators and entrepreneurs who have made the Internet what it is today and what it will be tomorrow.

Don't take my word for it. Listen to the experts from Bank of America, Goldman Sachs, Citibank, Wells Fargo, Merrill Lynch, and Raymond James. These companies have all stated they do not believe the FCC's current rules will hurt investment. Citibank said the FCC's rules were "balanced," and Goldman Sachs said they were "a light touch" and created "a framework with a lot of wiggle room."

What is even more telling is that investment in networks that support wired and wireless Internet has jumped since the announcement of the FCC's rules. In fact, investment is more than 10 percent higher in the first half of

2011 than in the same period last year. Venture capital firms poured \$2.3 billion into Internet-specific companies in the second quarter of 2011. I think these numbers speak for themselves. They tell a story of surging investor confidence following the FCC's vote on these rules and not the doomsday portrayal we will hear from our opponents.

Protecting innovation in this country is particularly important given the state of the telecom industry today. I don't need to tell you that telecom corporations have grown larger and fewer. We know, in part, because we have seen our cable, Internet, and telephone bills rising and rising. What else have we seen? Customer service that has gone straight out the window. When we are angry we wasted another day waiting for a Comcast repairman to come and install a cable Internet line in our house or we have been put on hold by Verizon for the fifth time in a single call and we finally decide to switch companies, we may realize we don't have another choice.

Seventy percent of households in this country have one or two choices for basic broadband Internet service. The majority, 60 percent, of the households only have one choice for high-speed broadband.

This is appalling for many reasons. It affects prices, quality of service, and choices for customers, but it is ultimately why we need net neutrality. We need to make sure companies play by the rules. As control of the Internet has shifted into the hands of a smaller and smaller number of corporations, we need to make sure those companies are able to dictate the speed of traffic based on how much a content provider can pay or prioritize their own content over other companies' content.

Of course, as I said before, there is nothing wrong with maximizing shareholder profit since that is what corporations are obligated to do. Minnesota is home to many great corporations, including 3M, General Mills, and Medtronic. These companies create thousands of jobs and produce fantastic products. Other corporations should not be able to prevent others from competing. Competition is what net neutrality is all about. It is about ensuring that the next breakthrough product has the opportunity to reach consumers through a free and open and equal Internet.

In addition to protecting innovation and small businesses in this country, net neutrality is also about speech. The Internet is not just where we go to shop for local products and services; the Internet is where we go to find political campaign information and read local news stories. The Internet is what helped fuel the Arab Spring, in large part because it has become the soapbox of the 21st century. Organizers and advocates are no longer stapling posters to bulletin boards to get their message out there. They are now posting their message on Twitter and Facebook. The

Internet is not just responsible for an upheaval in how campaigns and advocacy occur; it is also responsible for an upheaval in the print media world because the Internet is also the printing press and library of the 21st century.

This is why it is so important we make sure the corporations providing Internet service play by the rules and are not able to profit by speeding up or slowing down our access to certain news Web sites or other places we go to access information. We would not want the Libyan Government to shut down access to Facebook in the middle of protests in that country for the same reasons we do not want a corporation controlling what information and Web sites we are able to access in order to benefit their bottom line.

You know I have been a proponent of net neutrality for a long time. You have heard me over and over on how net neutrality is about keeping the Internet the way it is. But the truth is, the FCC rules, while a step in the right direction, are very conservative. I wish the FCC had done more, but the FCC wanted to reach a consensus, and they made a concerted effort to address many concerns of telecommunication companies, large and small, when they drafted these rules. For my opponents to now claim the FCC ignored public opinion or failed to consider the impact these rules would have on businesses is not true.

First, I think we could all stand a bit of history on the bipartisan nature of this rule. Net neutrality is something that two Republican chairmen of the FCC, Michael Powell and Kevin Martin, championed in 2004 and 2005. Chairman Powell first articulated a set of net neutrality principles and Chairman Martin, 1 year later, achieved unanimous Commission endorsement of the FCC's open Internet policy statement.

In 2006, 11 House Republicans voted in favor of net neutrality on the floor. The Gun Owners of America, the Christian Coalition, and the Catholic Bishops joined with the ACLU, moveon.org and leading civil rights groups to advocate for the same principles for openness and freedom on the Internet.

This debate started 7 years ago, and only after reviewing more than 100,000 public comments and holding 6 public workshops did the Commission finally issue a rule. To claim this was premature, rushed or not carefully considered is just plain wrong. I also think it is completely inaccurate for my opponents to claim the Commission never analyzed the costs and benefits to this rule.

In fact, there is an entire section of the rule entitled "The Benefits of Protecting the Internet's Openness Exceed the Costs." I urge my colleagues to read this section of the Commission's order. It covers four pages. It contains over 25 lengthy, detailed, analytical footnotes. It is clear the Commission considered the costs and benefits of acting, and they concluded that "there

is no evidence that prior open Internet obligations have discouraged investment," and that "open Internet rules will increase incentives to invest in broadband infrastructure."

I recognize that a couple companies are challenging the FCC's rules in court, and they have every right to do so. But this resolution of disapproval amounts to little more than political gamesmanship from fringe organizations. I think it is important to know that not a single large telecommunication company supports this resolution of disapproval. They are not wasting their time with an arcane process, and we should not either. That is not to say Congress cannot and should not have a discussion about the merits of net neutrality. We can and we should.

Frankly, I have been disappointed by the quantity of misinformation that has been such a large portion of this debate in the past.

The rhetoric I heard during the House debate last April was disappointing. It is not the type of debate Americans deserve. I encourage a frank and in-depth discussion on net neutrality. I hope one day soon we will consider making a statutory change to the FCC's authority that will clarify that we want the FCC to make sure the Internet stays open and free. That will put the issue to rest for good. It is, frankly, the process we should be relying on. By forcing an up-or-down vote through the Congressional Review Act, we are short-circuiting the normal legislative process and ignoring the FCC's tremendous work on this issue.

This resolution of disapproval is a procedural stunt that wastes limited time which should be used to address the real problems Americans face every day. At the end of the day, the problems of Americans are why we are here. I love hearing from Minnesotans, and I got a great e-mail the other day. The letter was from a group of five self-proclaimed "highly-credentialed computer geeks," including a professor, a startup founder, an ex "Google-er" and a "non-ex-IBMer." In their e-mail they wrote:

The free market will drive innovation in the Internet, but careful regulation is needed to preserve the freedom of the markets from coalitions of companies that will seek to reduce competition.

They noted:

History promises that the leading companies will work together to create a monopoly that they can control so they can make more money and . . . disrupt innovation.

I am glad they and thousands of Minnesotans have taken the time to write and call to tell me how much preserving net neutrality means to them. These highly credentialed computer geeks are right: The free market will drive Internet innovation as long as that market is truly free and open—free from corporate control and open to all content providers equally.

These constituents and millions of Americans don't want Congress engaged in political sparring matches designed to appease a few vocal critics.

Americans, entrepreneurs, and small businesses want a world where the future Twitters, eBays, and Amazons of the world can grow and thrive, without interference from big mega conglomerates.

If passed, this resolution will hurt consumers, stifle innovation, and create uncertainty in one of America's most innovative and productive sectors. We are at a pivotal moment, and I hope my colleagues will recognize this and join me in voting down this resolution of disapproval.

I thank the Senator from Texas for allowing me to speak during this time, and I thank the Presiding Officer for holding the chair while I have been speaking.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Madam President, I yield up to 15 minutes to the Senator from Alaska.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Ms. MURKOWSKI. Madam President, there is a lot of discussion, of course, about jobs in this country—where they are, and what we can do to help incent them. I had the opportunity while I was in my State last week to host three different townhalls that focused on the state of our Nation's economy and what is happening with jobs and job creation. As I asked Alaskans for their input, what I heard consistently from community to community was: We can allow for job creation that is meaningful. We can allow for opportunities here in our State and across the country. But the first thing you can do is to get the government out of the way. That was probably my biggest takeaway out of the townhalls with Alaskans: Get the government out of our way so we can move forward as small business owners and operators, as those who are looking to advance jobs in resource development. Move the government back, and we can make some things happen.

I think one of the key ways we can create real jobs is by moving the Federal Government out of the way of the private sector. Yet this administration is doing exactly the opposite. Our economy struggles to grow and many Americans, of course, are out of work, but what we are seeing out of the White House is this effort that essentially buries job creators under a mountain of paperwork and regulations. Businesses waste hours and productivity on checking the right boxes and making sure they have filled out the right form in the right way, rather than creating new opportunities for employees. Far too often, our small businesses are being judged by how well they keep their safety records rather than the actual safety records themselves: Did you check the right box? Did you fill out the right form? If you didn't, we are going to fine and penalize you. But is the focus on making sure they have a strong and sound safety record?

Many of the regulations—and, unfortunately far too many coming from the EPA—unnecessarily raise the cost of energy and other vital goods and services. I, as the ranking member on the Energy Committee, have spent a lot of time and a lot of focus on what we are doing in this country to help reduce our energy costs. Unfortunately, far too often we are seeing increased costs to our families and to our businesses because of the regulations that come at them. While we all support responsible environmental regulation—I want EPA to do its job—we also want to protect other vital national interests such as affordable and reliable energy and a strong economy.

Remember too that unreliable or unduly expensive energy has broad negative impacts on all aspects—public health—all aspects of our day. When I hear from Alaska's business owners, they say two things. I told my colleagues what the first one was, which is get government out of the way, and let us get to work. Business owners across the country agree—there was a Gallup poll last month—small business owners indicated that complying with government regulations is the most important problem they face today. The No. 1 issue on the minds of small business owners is the fact that complying with government regulations is burying them. What we hear from businesses is that they need the regulatory agencies to follow the rule of law and strike a proper balance between the many important national interests our laws protect.

When it comes to regulation, in my opinion, this administration has gone further—they have pushed past that rule of law in striking that proper balance. What we are seeing is a level of overreach, which I think is unprecedented, by the agencies reaching out and expanding their jurisdiction, if you will, and setting policy as opposed to implementing the laws that have been passed.

The resolutions of disapproval will have before us for a vote tomorrow—Senator PAUL's resolution on the cross-State air pollution and Senator HUTCHISON's resolution of disapproval as it relates to the Internet—are both incredibly important for the issues they raise but even more so speaking to what we are seeing right now with agency overreach. As the Chair may recall, last year I led an effort on this floor to push back against the EPA in an area where the EPA was, for all intents and purposes, setting policy when it came to greenhouse gas emissions in this country. I strongly and firmly believe the role of the agencies is to implement the laws we have passed, not to set policy. So I share the concerns Senator HUTCHISON and Senator PAUL have raised with the two rules that are at issue today. They are utilizing a tool under the Congressional Review Act which allows us as a Congress to step in when Federal agencies go overboard with trying to make businesses

comply with costly regulations, in effect, that overreach.

Let's first discuss very briefly Senator PAUL's resolution of disapproval regarding the Environmental Protection Agency's cross-State air pollution rule. I have seen it referred to as the acronym CSAPR or "zapper," but because neither one of those sounds like anything we can relate to, I will refer to it as the cross-State pollution rule. This rule should not go forward at this time for a number of reasons, not the least of which is its potential impact on electric reliability. Independent grid operators and the independent professionals whom we count on to assess electric reliability have expressed concerns about subjecting generators of electricity to the rule, especially on the current timetable they are dealing with. The EPA simply needs to take another look at those impacts and what this rule will do to electricity costs.

There have been a number of independent studies that have pointed to the impact of EPA's rules generally, including the cross-State pollution rule and what that impact would be on existing electric generation capacity. The predictions differ on magnitude but project the retirement of as much as 8 percent of the Nation's installed electric generating capacity. Again, I will grant you, there is a range of difference here, but potentially as much as 8 percent of our country's installed generating capacity could be brought offline. That is significant. I have asked for a reliability analysis. We have gone back and forth in terms of getting that assessment. There will be a technical conference at the end of the month that hopefully will lead to a better understanding, but the long and the short of it is right now, we know that we don't know exactly how much could be impacted by this rule and others.

More specifically, the rules generally and the cross-State pollution rule alone could lead to more intense regional impact. Texas, for example, wasn't even included in the proposed rule but, as a consequence of the final rule, could see some very significant powerplant retirements and hence potentially significant adverse impact on reliability. The Midwest, according to the grid operator there, could also see retirements of electric capacity with attendant challenges for keeping the lights on.

In addition to the reliability impact, there is also going to be a cost impact. The cross-State pollution rule is the first of a number of pending rules to go final and the EPA has made some major changes between that proposed rule and the final rule. The agency has even proposed significant technical adjustments as recently as last month, even though the rule is slated to go final by the beginning of this next year.

Putting aside the merits of the corrections—and I understand they don't

go far enough—the EPA should be sent back to the drawing board to learn more, understand more about the potential reliability impact, and then should amend the substantive requirements of the cross-State pollution rule so that those required to comply can comply. If EPA had looked carefully at that time-reliability issue in the first place, there probably wouldn't be reason for the delay, but they acted in haste, and haste makes waste.

I wish to speak quickly to Senator HUTCHISON's resolution of disapproval regarding the FCC net neutrality rule. The rule put into place by the FCC in 2010 circumvents Congress. It assumes an authority that this body never consented to. We cannot allow the executive branch to go down this road. We just should not allow it. No provision of any statute explicitly gives the FCC the authority to impose these sweeping rules on the Internet. In fact, section 230 of the Communications Act makes it the policy of the United States "to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation." The Internet, we would all agree—I heard the comments of the Senator from Minnesota—has been a huge boon for small businesses and jobs throughout our country. We recognize that. We want to ensure it continues in that way.

To quote FCC Commissioner McDowell from a Wall Street Journal op-ed:

Net-neutrality sounds nice, but the web is working fine now. The new rules will inhibit investment, deter innovation and create a billable-hours bonanza for lawyers.

So unless the administration is trying to create jobs for lawyers, I don't find any justification to expand the government's reach to regulate the Internet as the FCC proposes. Once again, what we are seeing is an agency stepping in to regulate in an area where the laws simply did not contemplate.

For all of these reasons, and because the Federal Government needs to stop overburdening our country with costly regulations at a time when we can least afford it, I support the resolution of disapproval from Senator HUTCHISON as well as the resolution of disapproval from Senator PAUL.

I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN.) The Senator from Oregon.

Mr. WYDEN. Mr. President, soon the Senate will vote on the Hutchison resolution that, as the Presiding Officer said very eloquently, would overturn the decision of the Federal Communications Commission on what has come to be known as net neutrality. The bottom line for me is straightforward. A vote for the Hutchison resolution will enable a handful of special interests to occupy the Internet. These elites will then have the power to crowd out the voices for change and the ideas of the future. The Internet

would become a glidepath for a relatively small number of people to gain enormously rather than an opportunity for all Americans to prosper.

I think some of the ideas that have been offered up with respect to the Hutchison resolution just defy the facts. For example, we had some discussion about section 230 of the Communications Decency Act. I wrote that section. It was a key development, in my view, in the growth of the Internet because it gave us a chance to deal with smut and some of the junk families have been so upset with without squelching the potential for the net. It enabled content sharers to grow, ever since we struck that thoughtful approach, rather than just go to a censorship regime. I have heard that somehow net neutrality would undo that particular provision. Nothing could be further from the truth. Net neutrality is exactly about what I sought to do in section 230 of the Communications Decency Act, which was to make sure that all voices could flourish—not just the voices of a few but all voices could flourish.

If anybody wants to talk a bit more about section 230 in the Communications Decency Act, I am happy to have that discussion, but as the author of that provision, it is something I and a lot of other people who have worked in this field have felt was essential to the growth of the Internet, and we share that view just as we believe that, as the Presiding Officer does, net neutrality is critical to the growth of the Internet in the years ahead because the fundamental principles that underlie both section 230 and net neutrality are the same.

The debate about the Federal Communication Commission's decision goes right to the heart of what the Internet is all about. It has always been a platform where all the actors are equal, where everybody has that opportunity, as the Presiding Officer suggested, at the American dream. It is a place where, whether it is one dissenting voice screaming out for democratic change or one brilliant idea that forever changes the way that people and society organize, everyone has that opportunity.

I chair the Senate Finance Subcommittee on International Trade. I think just one example of what we have seen is the Internet is going to be the shipping lane of the 21st century. This is the way societies are going to organize. This is the way people are going to come together. This is the way business is going to be conducted. Basically, net neutrality protects everybody's access to that shipping lane. It is not just going to be a place for the old-world business model. You bet the old-world business models are threatened by net neutrality. I understand that. I understand they are threatened by it. They have always been able to count on big, powerful, and well-connected interests and organizations to help them to dominate in-

dustry, and the Internet overturned that kind of thinking because it is the equalizer, it is the democratizer.

It just seems to me that when we open our morning newspaper day after day and see that the hope of the country is in innovation, in startups, in new ideas—it is not just in Silicon Valley, it is all over the country and all over the world—the last thing we want to do here in our country is adopt rules that would retard that development. And my view is that the power of the Internet—the network—is best utilized when content can move freely through it, and that is whether it is free from taxes, from liability, and certainly free from the kind of discrimination that would be allowed if the net neutrality rules were overturned.

Again, I touched on section 230 of the Communications Decency Act and why that was so important to the growth of the net and why I think net neutrality is consistent with that. It is the same with respect to some other legislation in which I have been heavily involved.

I had the privilege of being one of the coauthors of the Internet Tax Freedom bill. What that was all about was trying to protect the Internet from discrimination—not all taxes altogether but discrimination. That, too, is a fundamental principle of the net neutrality rules, is trying to make sure the net is not going to be singled out by a handful of special interests who could, in effect, devise what amounts to their own lanes on the Internet and force everybody else to pay for it.

So despite what may even be the interests of some of these powerful interest groups—and I know they are all saying now that they have no intent to discriminate against content over their networks. History shows that they cave every time when shareholders come and say: Look, you have to take this step to generate a profit. I think the Internet is too important to leave those kinds of decisions vulnerable to what is inevitably going to be the cry from shareholders and others to maximize profits.

One last point, if I might. I see other colleagues waiting to speak. I think the Internet and the economy in this country that is driven by the Internet represent perhaps our greatest comparative advantage. I touched on the Internet being the shipping lane of the 21st century. You know, what I want us to do is enhance the American way, enhance American values, and use the Internet to promote those values, facilitate speech, and expand the marketplace.

The reality is that the American brand is something very special, very special all over the world. The fact is, we have small businesses, and we heard from them in hearings. I know the distinguished chairman of the Commerce Committee is here, Senator ROCKEFELLER, and others. Hardly a day goes by that I don't wish I was back being a member of the Senate Commerce Committee because it is such an important

committee, it does such important work. We saw in some of those first hearings on the Internet—we started looking at taxes and regulation and liability and the Communications Decency Act—we saw how small businesses that really could operate only in a relatively small area for years and years suddenly, after they paid their Internet access charges, could go wherever they want, when they want, how they want, and they were equal to the most powerful groups and voices in the country. That is their opportunity. That is their chance to get their brand all over the world.

We ought to make sure we take no action that is going to make it harder for small entrepreneurs to exchange their goods and services far beyond their communities. We ought to be making judgments that allow them to get into every nook and cranny of the world with the American brand.

I hope my colleagues will reject this resolution. I believe the Internet has thrived precisely because of the principles of net neutrality. It has contributed to the American economy and to job creation because consumers ultimately get to see and get what they want as quickly as they want it.

It is going to be an important vote. I heard the Presiding Officer say that this was something of an issue for geeks, and from time to time, people have said I am one of those. But I will tell the Presiding Officer, I think ultimately the net is not about geeks, it is about democracy. This is the great democratizer. This is the trampoline that provides opportunities to people without power and clout.

I want to say to colleagues, particularly those who have mentioned section 230 of the Communications Decency Act, as the author of that particular provision—and Senator ROCKEFELLER remembers this huge outcry about smut. We were all concerned about smut at that time. And we said: There is a choice. We can either do, with respect to this debate, what makes sense for the future, and that is empower families and parents to get these filters so the Internet can grow and we can fight smut in a practical way, or we can do a lot of damage and come up with some sort of censorship regime.

As colleagues remember, essentially both approaches were included in the bill, and the approach that mandated censorship was struck down. Freedom won. The principles of net neutrality won in that first big battle fighting smut 15 years ago. If we were to undo the decisions of the Federal Communications Commission and move back to the days when you could talk about discriminating, you know, against the Internet, I think it would be a step against all the progress we have made in the last 15 years with respect to oversight and regulation and taxes.

This is an important vote, colleagues. When you read the morning newspaper and you see that it is the

entrepreneurs and the startups and the innovators who are providing the path forward in a very difficult economy, I think you will see that the policies we have laid out for the last 15 years, whether it is the Communications Decency Act, whether it is other legislation—Chairman ROCKEFELLER remembers when we wrote the digital signatures law in the Commerce Committee—these votes, these laws have all become law because they essentially were built on the very same principles of net neutrality, and that is freedom for all and a democratic Internet to provide opportunity to all Americans and not just the elites, not just a handful of special interests.

I commend Chairman ROCKEFELLER and Senator FRANKEN for their good work.

I often agree with Senator HUTCHISON. This is not one of those opportunities.

I hope my colleagues, when we have this vote on the extraordinarily important resolution involving net neutrality, will vote against the Hutchison resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There is 79 minutes 14 seconds.

Mrs. HUTCHISON. I yield up to 10 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I come to the floor today to support Senator HUTCHISON and to talk about this role that is being played now by the Federal Communications Commission in terms of regulating the Internet for the very first time.

I oppose having these bureaucrats regulating the Internet. I support the resolution of disapproval that is now on the Senate floor.

In the 2008 Presidential campaign, then-Candidate Obama made it very clear that he was for empowering Washington's bureaucracy through more redtape. The President was not looking to make Washington more efficient, in my mind, or more effective, but to make Washington bigger, to centralize power in Washington. One of his campaign promises was a new regulation called net neutrality. It appears to me that the President then appointed one of his school friends and basketball buddies to be Chairman of the FCC, possibly with this in mind.

So here we are in 2011, and it seems to me that Congress is now being asked to make a decision. I want Congress—I am asking Congress and my colleagues to reverse the course of the bureaucracy.

The administration did not even deem this rule to be what they call significant.

A significant rule is one that has an impact on the economy of at least \$100 million. I believe this is a significant

rule. I support Senator HUTCHISON in her resolution because it will keep the Internet free and open.

Republicans and Democrats agree. Earlier this year, the House of Representatives passed a similar resolution and it had bipartisan support.

Net neutrality is very real. The time to act is now. We will be voting in the next day or so, and the reason we need to act now is that the rules of having more bureaucratic government control go into effect in just a few weeks—November 20, 2011.

It does seem Congress is being disregarded. Congress has never delegated authority to the FCC to regulate in the past.

The Communications Act of 1996 had a goal, which was to “promote competition and reduce regulations.” In 1996, Bill Clinton was President. This is what it said—the Communications Act of 1996: The goal, to “promote competition and reduce regulation.”

Instead, we have unelected, unaccountable bureaucrats, who are ignoring Congress and voting for regulation of the Internet.

Let's look at the overall economy. Right now, we have 14 million Americans who are out of work. The number again this month is 9 percent unemployment in this country. The administration is now making it a priority—a priority—to regulate another sector of our economy over jobs.

The FCC has opened the door for Washington bureaucrats to take over one-sixth of our economy. They ought to be focusing on creating jobs, making it easier and cheaper for the private sector to create jobs. But between health care, banking, and now technology, this administration is taking over our economy sector by sector and making it more expensive and harder for the private sector to create jobs.

The FCC's actions threaten innovation and investment in America. Regulations are the biggest burden being faced by small businesses in this country today. If you don't believe me, just ask them. The polling of small business owners has said it is regulations coming out of Washington that are their biggest burden today.

Technology pioneer and Apple co-founder Steve Jobs warned President Obama about Washington redtape. There is a new biography out about him by Walter Isaacson. He said this:

[Jobs] described [to Obama] how easy it was to build a factory in China, and said that it was almost impossible to do these days in America, largely because of regulations and unnecessary costs.

This rule we are looking at transfers the future of the Internet out of the hands of the American people, and it makes government the gatekeeper of Internet services.

Former FCC Commissioner Meredith Baker said this:

The rules will give government, for the first time, a substantive role in how the Internet will be operated and managed.

This means the future of Internet technology—whether on a smartphone,

iPad or computer—will be in the hands of Washington bureaucrats.

Engineers and entrepreneurs will not be able to give us the Internet we want, at a price we want.

Former FCC Commissioner Baker also said:

By replacing market forces and technological solutions with bureaucratic oversight, we may see an Internet future not quite as bright as we need, with less investment, less innovation and more congestion.

No American wants that, but that is what this government is giving to the American people. To me, this means recent Internet service innovations such as 3G and 4G wireless speeds and new fiber networks now become riskier investments.

Less investment means every American's ability to access the Internet he or she wants may be affected. Less investment means fewer jobs.

Four months ago, President Obama realized he had a regulation problem with independent agencies such as the FCC. He issued an executive order asking independent agencies to review burdensome redtape. Instead of reviewing redtape, they have rolled out even more of it. The Presidential review has fallen woefully short.

The President asked independent agencies to produce a plan to reduce regulations within 120 days. Well, 120 days was yesterday. So the 120 days have come and gone, and what we have received once again from this President is more rhetoric and little by way of results.

If there was ever an example of an independent agency rule that needs to be put against the President's rhetoric, it is this net neutrality rule.

Net neutrality picks winners and losers. It threatens smaller and rural providers.

Brett Glass of LARIAT, a wireless Internet service provider in Wyoming, warned the FCC about the effects on smaller providers. He said the redtape will hurt his “ability to deploy new service to currently underserved and unserved areas.”

He warns that many broadband providers are small businesses that are serving rural communities. Mr. Glass wrote:

The imposition of regulations that would drive up costs or hamper innovation would further deter future outside investment in our company and others like it.

So here we are. Americans have made it very clear that they oppose Washington worsening the Web. Over 60 percent of voters oppose Washington putting its hands on the Internet.

This regulation we are debating is a classic example of Washington trying to fix something that is not broken.

Ninety-three percent of Americans are satisfied with their broadband service. Ninety-one percent of Americans are satisfied with their broadband speed. The Internet is working remarkably well.

There is a fundamental disconnect with those in Washington who seek a

more powerful bureaucracy and those at home in the 50 States of our Union who are seeking a stronger economy.

The warnings are real in Wyoming, my State, and all across this country. Congress must step in where the bureaucrats in Washington have overstepped. Senator HUTCHISON's resolution of disapproval should be supported on both sides of the aisle.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. RUBIO. Mr. President, I rise in support of this resolution to disapprove the FCC's open Internet order.

The FCC wants to regulate the Internet. Why? There must be some sort of market failure that needs correcting or some Internet issue that needs fixing or out-of-control provider that needs regulating, right?

That is not the case at all. We are talking about one of the most successful sectors of our economy—one that has flourished with limited government regulation and continued to create jobs in the midst of a very deep recession and economic downturn.

Since the Internet was privatized in the midnineties, it has prospered. The industry's growth and impact on our economy, as well as its development of new, life-changing technologies and applications, is staggering.

Twenty years ago, the Internet as we know it did not exist. Today over 2 billion people use it.

Ten years ago, Facebook, Twitter, YouTube, and Skype did not even exist, and hundreds of millions of people are now users.

Five years ago, mobile applications didn't exist. At the end of last year, there were over half a million apps, applications, and well over 10 billion will be downloaded this year. Hopefully, they will soon be downloading mine. We came up with one yesterday for our office.

Two years ago, the iPad didn't exist. Now, over 25 million have been sold.

All these advancements expanded broadband access and encouraged private investment.

In 2003, only 15 percent of Americans had access to broadband and now over 95 percent do. This growth will only continue.

In its annual report on the Internet, Cisco projected that the Internet will quadruple over the next 4 years, and the 1-year growth, from 2014 to 2015, will be equal to all the Internet traffic in the world last year.

Clearly, the Internet industry is growing and innovating at lightening speed. Why has the industry been able to do this? It is because the environment for innovation and job creation has been ripe, with government regulation not getting in their way.

Imagine that, the government has stayed out, has taken the "light touch" approach, and the industry has prospered as a result.

The broadband expansion we have seen, the innovation that has occurred

with computers and tablets and explosion of smartphones and mobile devices and the increased job creation have all occurred without the FCC's open Internet order.

So why does the government want to start regulating now? Is it because the Internet endangers public health or environment? Clearly not. Yet the proponents of Internet regulation claim the freedom and growth of the Internet are in jeopardy. Quite frankly, in my opinion, that is ridiculous.

To suggest that some type of regulation is needed flies in the face of the growth of the Internet economy. This is one of the problems facing our economy and plaguing our country. We are regulating where regulation is not needed. We are regulating based on speculation and in search of a problem.

This is not how we encourage innovation. This is not how we create certainty in the marketplace, and this is definitely not how to encourage job creation.

Over the past few weeks, all we have talked about is jobs and rightfully so because, throughout America, the No. 1 issue facing Americans is jobs—or the lack thereof.

Yet here we are debating whether to overturn a regulation on one of the few growth areas of our economy, one of the few sectors that has created and is creating good, high-paying jobs.

This should be common sense. It is no wonder people watching think that in this place, Washington, DC, the Federal political process is out of touch and dysfunctional.

As the FCC drafted the open Internet order, the Commission heard from broadband providers, including small businesses, about the problems the order would create and the negative impact it would have on consumers.

One small Internet service provider stated that the imposition of network management rules will hinder its ability to obtain investment capital and deploy new services in unserved areas.

The regulations would also increase costs and hamper innovation, which would only further discourage outside investment in the company.

In other words, the Internet regulation we are talking about today would lead to lower quality of service and would raise operating costs, which would result in higher prices on consumers.

So we can clearly see the impacts of Internet regulation—less investment, less innovation, higher prices for consumers, lower quality services, increased business costs and, ultimately, fewer jobs.

Companies will spend more money on compliance, basically complying with regulations, instead of investing in innovation and driving down prices. More money will be spent on lawyers, not on engineers.

Let me be clear. The Internet will still exist if Washington bureaucrats get their way. But the order's impact will be profound, and it is going to dis-

rupt what has become one of America's proudest entrepreneurial and industrial achievements in our history.

I have heard proponents say this regulation will preserve the open Internet as it exists today. But it is my humble opinion this is shortsighted.

Personally, I don't want to continue using the Internet of today. I want the Internet of tomorrow. I want the devices and applications I use today to soon be obsolete and out of date because the industry has continued to churn out something newer, something better and faster.

I want technologies to continue to develop and industries to continue to emerge. We are now using fewer devices for more telecommunications services, and it is not hard to imagine a day when we will use one device for all of them.

The industries are headed in that direction. When we throw the government in the middle of it, the pace will slow, uncertainty will enter the marketplace, and future innovations may just go unrealized.

One of the beautiful aspects of the Internet industry is that we don't know what is around the corner in terms of new technologies and innovations. If a few years ago we had told someone we would Google them, they probably would have been offended. But today that actually means something.

Going forward, we have no idea what the future holds, what the new innovations or ideas or technologies will be. We know technologies we cannot even imagine today will very soon be part of our everyday lives. The question is whether we are going to encourage that and particularly whether we are going to encourage that to happen here or whether we are going to discourage that from happening.

Regulating the Internet—and this specific measure we are trying to knock down today, if it passes—will discourage that development.

The FCC and Federal Government cannot keep pace with the Internet and technology industries, and the government should not attempt to catch up through regulation or legislation. That is important. We are asking this government—this bureaucratic structure, which struggles to keep pace with issues we have been facing for the last 20 years—to somehow keep pace with the issues and technology and innovations that arrive in the Internet world. Not only do I think it is asking too much, I think it is impossible. Therefore, the government should not be looking at ways to preserve the status quo. Our government should be involved in looking at ways to promote the future of these industries, and this Internet regulation does not promote the future.

I have frequently spoken on this floor about the new American century, about whether our country will continue to be a leader in this new century. I believe with all my heart—I do, even with all the bad news and the

noise we hear every time we turn on the television—there is no reason this 21st century should not be every bit as much the American century as the last century. One of the reasons I believe that is because of the advances our entrepreneurs and innovators are making in this field of the Internet.

If there is any sector of our economy that will ensure that the next century is the American century, it is the Internet and the technology sector. That is an industry where we are the leader, and it is the one where we must continue to lead. To do that, we must encourage innovation, incentivize investment, provide certainty in the marketplace, and promote the competitive environment this dynamic industry needs.

That will require passage of this resolution of disapproval. So I urge my colleagues to vote yes on the resolution.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. There is 60 minutes remaining.

Mrs. HUTCHISON. Sixty?

The PRESIDING OFFICER. Sixty minutes, yes.

Mrs. HUTCHISON. I thank the Chair.

Mr. President, I have been looking for a time when the floor was open to refute some of the comments and concerns raised earlier on the Senate floor. I want to start by taking on a comment that was made by the Senator from Minnesota, Mr. FRANKEN, who said YouTube started above a pizzeria in 2005 and sold for \$1.6 billion 2 years later to Google, and that wouldn't have been possible without net neutrality.

Well, Mr. President, I must point out that we didn't have net neutrality in 2005. We haven't had Federal regulation of the Internet in this country such as we have seen during this last year put forward by this administration. In fact, YouTube and Google were both created in a marketplace without net neutrality regulations. Other online successes—Facebook, Hulu, Twitter, and new devices such as the Apple iPhone and Amazon Kindle—all happened without net neutrality regulations. These are innovations that have changed communication patterns not only in our country but around the world as well. So we have had these innovations without the heavy hand of government.

It is very interesting to hear the debate on the Senate floor because we seem to hear that net neutrality is something that will keep the Internet open. The opposite is true. It is beginning to put the clamps on the successes that we have had by having an open Internet. All these companies they are talking about needing net neutrality to come forward and blossom and grow are the companies that have done exactly that without net neutrality regulations.

What we should do is assure that we don't put a blanket over the Internet and start saying to everybody who has a new idea or a new product or a new service provider: You better go to the FCC before you go forward with that or you could be in jeopardy. You could be penalized. You could be thought to have an "unreasonable" product on the Internet because we don't know yet what is reasonable. We just know you have to be reasonable because we have a new regulation now that says you must be reasonable, without any definition of what this FCC—which had no authority to go into this area—is going to determine is a "reasonable" product that would not interfere with anything else.

Mr. President, we haven't had net neutrality before. All the successes I hear talked about in this debate have happened without the heavy or the light hand of government stopping the originality and innovation that has marked the success of our country.

Earlier, Mr. KERRY, the Senator from Massachusetts, said the Internet made the 1996 Telecommunications Act obsolete 6 months after it was enacted. But if the 1996 act did not sufficiently address the Internet, thus making it obsolete, how can that same law be the genesis and basis of the FCC's assertion it has the power to regulate the Internet? We have to have one or the other, and it is our assertion the FCC did not get specific authority to regulate the Internet that is required for Congress to give it in order to make rules in this area. So Senator KERRY can't have it both ways. He can't say the Telecommunications Act was obsolete but it is also the basis of these new restrictive regulations.

Senator KERRY sent a "Dear Colleague" letter to everyone in the Senate asking them to vote against this resolution. What I think Senator KERRY was saying in that letter is that net neutrality is not a regulation of the Internet because it is just a regulation of the onramp. In other words, we are not trying to support the FCC regulating the whole Internet; they are just doing the gateway, they are just doing the onramp.

Well, that was the position the FCC took when they made this regulation. But we can't argue that net neutrality is not regulation of the Internet because the Internet service providers are the only onramps to the Internet. It is a misleading statement to say that just regulating the onramp isn't regulating the Internet. The Internet is the entire global network of millions of computer networks. It uses the Internet protocol standard to interconnect with each other. Internet backbone providers and last-mile Internet service providers serve as the foundation of the Internet. So they are the foundation.

Web sites and services such as e-mail and voice-over IP, or VOIP, allow users to communicate on top of the foundation. The Internet is the whole online

ecosystem put together. We can't have the edge without the core and vice versa. The onramp is as much a part of the information superhighway as are the cars traveling on it.

FCC Commissioner Robert McDowell put it well in his dissent from the open Internet order that we are discussing today. He said:

To say that today's rules don't regulate the Internet is like saying regulating highway on ramps, off ramps, and pavement don't equate to regulating the highways themselves.

Mr. President, if we are going to say the FCC can regulate the onramp—and that is the first heavy hand of government that is going to start controlling and making decisions about what is reasonable and what is not—that means businesses are going to have to go to the FCC and say: Mother may I. If they have an innovative product, that is going to cost the consumer more because they will have had to go and hire lawyers to go to the FCC to get prior approval or it will delay the product getting out to consumers, possibly letting a European service provider that doesn't have these kinds of barriers get ahead of us.

Internet technology is the basis of hundreds of thousands of jobs and products in our country. We are in a crisis right now. We all know we have 9 percent unemployment and that our economy is even dead in the water. So we have to do something to jump-start the economy. The last thing we want to do is put a blanket on it to make it harder for it to come back. I don't think anybody in this country with any common sense is going to say we have a thriving economy right now. So it does defy common sense to say we are going to allow regulations Congress has not approved and that Congress has not authorized the regulator to make, knowing it will have the effect of either freezing or delaying the innovation that has been the hallmark of the success of the Internet and technology in our country.

There are several organizations that have banded together to ask that people vote for the resolution today. I ask unanimous consent to have printed in the RECORD a letter from, among others, Americans for Tax Reform, Taxpayers Protection Alliance, Hispanic Leadership Fund, and Americans for Prosperity.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOVEMBER 8, 2011.

Re Rating Senate Joint Resolution 6, Net Neutrality.

U.S. SENATE.

DEAR SENATOR: We write to inform you that each of our organizations, together representing millions of Americans, will consider rating a vote in favor of Senate Joint Resolution 6 to overturn the Federal Communications Commission's (FCC) Net Neutrality Internet regulations in our respective congressional ratings.

The FCC enacted these Net Neutrality rules despite a complete lack of Congressional authorization and after being told by

a court that they lack jurisdiction. The FCC nevertheless insists on government regulation of how data travels across the Internet without any showing of consumer harm or other justification.

The FCC's order also runs contrary to the broad and bipartisan conversation in Washington about how best to grow the economy and spur job creation. President Obama and Members in Congress on both sides of the aisle have called to rein in overbearing regulations that harm economic growth.

The FCC's Net Neutrality rule is a prime case of unnecessary rules emanating from unelected bureaucrats that will cause economic harm and cost hundreds of thousands of American jobs, as numerous studies have pointed out. But regardless of whether you support Net Neutrality rules, the process by which they were created cannot be allowed to stand.

Under the U.S. Constitution, it is your role in the U.S. Senate to craft laws—not the role of federal agencies that are bypassing Congress. Senate Joint Resolution 6, sponsored by Sen. Kay Bailey Hutchison, is a simple, commonsense measure that uses the Congressional Review Act to reject these rules, placing legislating authority back in the hands of Congress where it belongs.

We urge you to vote for Senate Joint Resolution 6 and may be rating your vote in our annual Congressional scorecards. A vote against this measure is a vote to abdicate your responsibility and to instead rubber-stamp the job-killing and unwarranted regulatory actions of an unelected and unaccountable federal agency.

Sincerely,

GROVER NORQUIST,
*President, Americans
for Tax Reform
(WILL RATE).*

PHIL KERPEN,
*Vice President for Policy,
Americans for Prosperity
(WILL RATE).*

DAVID WILLIAMS,
*President, Taxpayers
Protection Alliance
(WILL RATE).*

THOMAS SCHATZ
*President, Council for
Citizens Against
Government Waste.*

MARIO H. LOPEZ,
*President, Hispanic
Leadership Fund.*

Mrs. HUTCHISON. Mr. President, in part, the letter says:

The FCC enacted these Net Neutrality rules despite a complete lack of Congressional authorization and after being told by a court that they lack jurisdiction.

Remember, this court, in the Comcast case, basically said to the FCC: You and all the other regulatory agencies that are independent must have specific authority from Congress to regulate in this area.

They found in the Comcast case they did not have such jurisdiction. Once again, citing from the letter in support of passing S.J. Res. 6—which is signed by Grover Norquist, Phil Kerpen, David Williams, Thomas Schatz, and Mario Lopez—it says:

The FCC's order also runs contrary to the broad and bipartisan conversation in Washington about how best to grow the economy and spur job creation. President Obama and Members in Congress on both sides of the aisle have called to rein in overbearing regulations that harm economic growth.

Here we have yet another regulation on top of the EPA and the NLRB and the NMB coming forward to put a damper on our economy.

Mr. President, I would like to read from an opinion piece written by Phil Kerpen, who is with the Americans for Prosperity, and I thought this was relevant to the debate.

Network neutrality sounds nice. Originally, it was the idea that all of the traffic . . . that travel over the networks that comprise the Internet should be treated exactly the same way. But engineers cried foul, because the routers that make the Internet work are highly sophisticated with millions of lines of code that necessarily prioritize different types of traffic. Streaming video can't tolerate delays of a few seconds whereas an e-mail could.

So network neutrality morphed into something even more dangerous, empowering the FCC bureaucrats to play traffic cops, micro-managing networks, and deciding which traffic can or can't be prioritized. The result would be a precipitous decline in private investment because the companies that spent billions of dollars building networks could no longer be certain how the FCC bureaucrats would allow those networks to be used.

I am reading from this letter, and I will continue. The letter says:

A recent study from New York University found that hundreds of thousands of jobs would be lost. The tech sector—the brightest spot in our economy—would be burdened by Federal regulations the way the rest of the economy has been.

So these are excerpts from Mr. Kerpen's opinion piece that say it is now crunch time to stop the FCC's Internet takeover.

I think these outside groups that are weighing in are showing that just regular consumers—I heard the list of groups that are supporting this rule that has come out. But the citizens who are for free markets and tax reform and for letting our businesses grow and thrive through the American innovation—I like some of the things they have said that I think are very important in this debate.

I urge my colleagues to look at whether we are exercising our responsibility as Members of Congress when we would vote against stopping a Federal agency that has not had a delegation of authority from Congress to regulate in this area. The House of Representatives has already voted in favor of this resolution. We need to send it to the President and say to the President: Congress did not delegate our authority.

It is overstepping its bounds, and furthermore it is going to put a damper on the most thriving part of our economy today, and that is the tech sector. It is where we are, hands down, ahead in the world because we have kept the free markets. Why would we give that up to unelected Federal agencies that have not been asked by Congress to regulate in this area? And if we did, we should be required—because it is our constitutional responsibility to do so—to say exactly what we would ask a policy to be in a new regulation. We have not done that, and we should not allow the

Federal agencies, which are appointed but not elected, to take over this area that is so important for our economy.

If we have any guts at all in this Senate, we should stand up for our one-third of the balance of power in the Federal Government and assert ourselves to keep control over runaway Federal agencies that do not answer to anyone.

Mr. HELLER. Mr. President, the Senate will soon vote to overturn the open internet order, widely known as net neutrality. This measure that was passed days before the start of the 112th session of Congress by the Federal Communications Commission is a rule that many believe the FCC had no legal right to make and will harm job creation in the technology sector of our economy.

Plain and simple, this measure will cost the Nation good-paying jobs. That is why I do not support net neutrality and will vote in favor of the resolution of disapproval to overturn it.

Since privatizing the Internet in 1994, the FCC and Congresses led by both Democrats and Republicans have handled the Internet with a light regulatory touch by classifying it as an information service. This classification originated from a Democrat-led FCC, and the U.S. Supreme Court supported efforts to classify the Internet as an information service when it upheld the FCC's Cable Modem Order on June 27, 2005.

The FCC's policy has been that subjecting providers of enhanced services, even those offered via transmission wires, to title II common carrier regulation was unwise given the fast moving, competitive market to which they were offered. In other words, the FCC, led by Democrats and Republicans, has been consistent in the belief that regulating the Internet the same way we regulate land telephone lines even if those lines are used to connect to the Internet was counterproductive to good public policy given the speed of innovation and the competition present. Even the U.S. Supreme Court supported this position.

So Congress has never passed a law that gives the FCC the power to regulate the Internet, the FCC has gone to great lengths to avoid regulating the Internet, and the U.S. Supreme Court has supported previous FCC administration policy toward zero regulation of the Internet. Yet here we are voting to overturn a Federal Communications Commission order to regulate the Internet.

Make no mistake, as FCC Commissioner Robert McDowell said, "To say the net neutrality rules don't regulate the Internet is like saying that regulating on-ramps, off-ramps, and its pavement doesn't equate to regulating the highways themselves."

But why does this matter? Why don't we just say: You know what, these unelected bureaucrats at the FCC know so much more than Congress and the Supreme Court. Let these rules go through.

Because they will cost us jobs. U.S. broadband has seen an investment of hundreds of billions of dollars in infrastructure expansion and upgrades over the last 10 years and that has led to hundreds of thousands of jobs in this industry.

This year alone, broadband providers are estimated to invest over \$60 billion in their networks. That is more money than the Federal Government has spent on highways in previous years.

I am well aware that the FCC insists the rules will not have a significant impact on the industry, but they did little to prove this. Minus a market or cost-benefit analysis, there is no way of knowing what exactly the impact of this regulation will be.

That is why I asked the FCC to conduct a market benefit analysis to prove the exact impact on jobs and the economy. The FCC stated the analysis was in the Internet order, but I still have not been able to find what they are referring to. I suspect the analysis was not ever actually done. If it was completed, the FCC would have seen that the costs of net neutrality would be significant and justifying the rules would not have been possible.

The fact is, net neutrality regulation is costly. As explained by the Federal Trade Commission in 2007 when they said in part:

Policy makers should proceed with caution in evaluating calls for network neutrality regulation. . . . No regulation, however well-intentioned, is cost free, and it may be particularly difficult to avoid unintended consequences here.

Policy makers should be very wary of network neutrality regulation . . . simply because we do not know what the net effects of potential conduct by broadband providers will be on consumers, including among other things, the prices that consumers may pay for Internet access, the quality of Internet access and other services that will be offered, and the choices of content and applications that may be available to consumers in the marketplace.

The FTC clearly stated that Congress must proceed with caution because we cannot fully quantify what the reaction by broadband providers would be if they were not able to manage their networks.

Again, let me state, some reports have said that over the next 5 years, there will be hundreds of billions of dollars invested in broadband infrastructure which will result in half a million jobs.

If broadband wire line and wireless service providers rolled back their investment by just 10 percent because of this regulation, the benefits of regulation would never outweigh the costs of job loss.

I assure you, these companies will roll back their investments if this rule is allowed to move forward, which will in turn eliminate jobs.

Because of the unpredictable nature of the Internet and evolving consumer demands, broadband providers must have the ability to change their business models to ensure maximum utili-

zation of their network. These net neutrality rules impose restrictions on how a broadband provider can offer Internet service, which means broadband providers can't adapt to an evolving Internet. If a broadband provider does not have the ability to manage their own network to ensure maximum profits, the incentive to invest diminishes. If you minimize investment, you lose jobs. Estimates have put the number of jobs lost because of this regulation at 500,000 over the next 10 years. In my home State of Nevada, the unemployment level is at 13.2 percent, the highest in the Nation. Any regulation that increases unemployment both nationally and in my State is unacceptable.

Finally, some people believe we need this regulation to ensure competition in the industry. I believe this is as ridiculous as saying that this measure will not cost jobs.

Fixed and mobile broadband Internet access is growing rapidly. In 2003, only 15 percent of Americans had access to broadband. In 2010, 95 percent of Americans do. Competition, investment, innovation, and job creation are all growing because of the light touch policymakers and the FCC have put on the Internet.

We are in this wonderful era of innovation and investment where people can use an I-pad to read their e-mail in the Sierra Nevadas because the government did not regulate the Internet. Now our friends on the other side of the aisle and the FCC are saying: Yes, but in order to continue this amazing innovation, we must regulate.

Competition is robust in this industry, and when weighed against the loss of hundreds of thousands of jobs, the need for this regulation is simply not there. Net neutrality should not be enacted. It makes no sense for Nevada and will cause unnecessary job loss nationwide.

I urge my colleagues to vote for this measure and disapprove of the FCC's net neutrality order.

Mr. TOOMEY. Mr. President, I rise today to speak in favor of the resolution of disapproval offered by the Senator from Texas. I commend her for leading this effort, and I was pleased to be an original cosponsor of the resolution.

Like many of my colleagues, I was dismayed last December when the Federal Communications Commission chose to impose heavyhanded and burdensome new regulations on the Internet. There was no market failure or consumer harm requiring FCC action, and the FCC Chairman's determination to deliver on a misguided Presidential campaign promise is very disappointing. It is especially troubling in light of the unanimous DC Circuit Court of Appeals ruling in *Comcast v. FCC*, authored by a Clinton appointee and former Carter administration aide, stating that the Commission lacked the statutory authority under the Communications Act to regulate the

Internet in this manner. Unfortunately, this decision, coupled with concerns expressed by Members of Congress, was completely ignored by an outcome-driven majority at the FCC. I doubt the Commission's lawyers will receive a warm welcome from the DC Circuit when they return to defend a policy the court struck down just last year.

Shortly after the Federal appellate court ruled in the Comcast case, recognizing that net neutrality rules adopted under the Commission's title I authority would have difficulty surviving a court challenge, Chairman Genachowski shockingly announced that he would reclassify broadband as a title II telecommunications service and apply a 19th-century regulatory framework to an innovative 21st-century technology. This decision ignored the successful history of treating broadband as a lightly regulated title I information service, which has been the policy of the FCC and Congress going back to the Clinton administration.

Keeping regulators' hands off of the Internet has historically been supported by FCC Commissioners and Members of Congress on both sides of the aisle. For example, on March 20, 1998, a bipartisan group of Senators sent a letter to the FCC stating: [[W]e wish to make it clear that nothing in the 1996 Act or its legislative history suggests that Congress intended to alter the current classification of Internet and other information services or to expand traditional telephone regulation to new and advanced services.] They continued: [[W]ere the FCC to reverse its prior conclusions and suddenly subject some or all information service providers to telephone regulation, it seriously would chill the growth and development of advanced services to detriment of our economic and educational well-being.]

I couldn't agree more.

Then Democratic FCC Chairman William Kennard shared their view, stating: [Classifying Internet access as telecommunication services could have significant consequences for the global development of the Internet. We recognized the unique qualities of the Internet, and do not presume that legacy regulatory frameworks are appropriately applied to it.]

Had traditional telephone common carrier regulations been applied to the Internet more than a decade ago, it is unlikely we would have the broadband services and speeds of today. The appropriate market incentives led to billions of dollars of private sector investment in broadband, created millions of jobs, and now high-speed Internet access is available to 95 percent of the population, and that number continues to grow. It is amazing what can happen when the Federal Government's regulatory policy for a particular industry is hands off.

Fortunately, after a bipartisan majority of Congress wrote to the Commission objecting to the FCC Chairman's proposed radical shift in policy, the FCC did not officially reclassify broadband as a title II telecommunications service. However, as we saw last December, the Democratic majority at the Commission did not abandon their results-oriented effort to regulate the Internet. Instead, in defiance of the Federal court decision in Comcast, the Commission chose to effectively place title II common carrier obligations on broadband service providers using their title I ancillary authority. The policy embraced by past Republican and Democratic FCC Chairman and Senators on both sides of the aisle has been relegated to the waste bin under the current regime at the FCC.

In order to justify placing these new regulations on the Internet, the FCC for the first time found that broadband was not being deployed to all Americans in a "reasonable and timely" manner. This is an absurd claim that quickly falls apart when you look at the facts. According to the FCC's own broadband plan, 95 percent of Americans have access to broadband. In the early 2000s, that number was less than 20 percent. In addition, terrestrial wireless and satellite broadband services continue to improve in terms of speed and availability. We are rapidly approaching the point where wireless Internet service becomes a true substitute for wireline service. This rapid rate of deployment and technological advances occurred absent the heavyhanded regulation we will be voting to repeal today.

For my colleagues who may be unaware, I would like to point out that the FCC determined that the broadband marketplace was competitive and should remain unregulated in 2002, 2005, 2006, and 2007. Proponents of regulating broadband services have failed to demonstrate what has changed to warrant Federal intervention. Most consumers have a choice of multiple broadband providers, and the suite of services and applications available on home computers, mobile smartphones and tablets, and Internet-connected televisions continues to grow. Even through tough economic times, broadband providers continue to invest and create jobs. I also find it perplexing that despite the FCC acknowledging that it may require \$350 billion in new investment to achieve the goals of the National Broadband Plan, the agency nevertheless willfully adopts rules that will have a chilling effect on future investment.

The Commission also makes the novel argument that section 706 of the 1996 Communications Act, which directs the FCC to "remove barriers to infrastructure investment," authorizes the adoption of new Internet regulations. The open Internet order flies directly in the face of the plain language of section 706. When the Commission imposed new rules on broadband serv-

ice providers, they built new barriers to infrastructure investment.

Support for Internet regulation seems to rely on baseless theoretical claims that consumers may be harmed by "Internet gatekeepers" at some point in the future. Despite the fact that the FCC Chairman has said he will use fact-based analysis when reviewing proposed rules, the facts indicate that consumers are not being harmed and broadband service providers are not blocking access to content. A fact-based analysis leads one to conclude that the market is healthy and competitive. I have significantly more faith in a competitive market rather than Federal bureaucrats shielding consumers from harmful business practices. In addition, current consumer protection laws, such as section 5 of the Federal Trade Commission Act, will effectively address real consumer harms were they to actually ever occur in the broadband space.

Lastly, it should be noted that while there have been attempts by some in Congress to impose similar regulations on the Internet, these attempts have all been unsuccessful. Unelected bureaucrats have now usurped Congress's authority and have taken it upon themselves to change the law. Opponents and supporters of net neutrality in the Senate should take offense to that, and I urge my colleagues to support the resolution of disapproval.

Mr. McCAIN. Mr. President, I am pleased to support the resolution before us that would express congressional disapproval of the Federal Communications Commission's move to regulate the Internet. The historically open architecture and free flow of the Internet should not be subject to onerous federal regulation.

As a member and former chairman of the Commerce, Science and Transportation Committee, I have fought to prevent the FCC from unilaterally implementing network neutrality regulations for many years. Last Congress, I introduced the Internet Freedom Act of 2009, which would have prevented the Commission from regulating the network management practices of internet service providers. And this congress, I am a proud cosponsor of S.J. Res. 6.

Skeptical consumers and American entrepreneurs should rightly view these new rules exactly for what they are—another government power grab over a private service provided by a private company in a competitive marketplace. Sadly, and to the detriment of consumers and our national economy, the FCC is the latest in a growing list of Federal agencies under the Obama administration that have chosen government intervention and influence over the free market. In a little less than 3 years, this administration has moved to control and exert more government influence over the auto industry, the energy sector, doctor-patient relationships, and now, through the FCC, it wishes to control high-tech industries by regulating its very core: the Internet.

According to a report recently released by the House Government Oversight and Reform Committee, the Obama administration has imposed 75 new major regulations costing more than \$380 billion over 10 years. Moreover, the report continues by pointing out that there are 219 more "economically significant regulations" in the works which will cost businesses \$100 million or more each year for a minimum cost of \$21 billion over 10 years. These new regulations and added costs come in spite of Presidential Executive orders to reduce burdensome regulatory redtape.

The government's politically motivated decision to regulate the Internet, like so many others, will stifle innovation, in turn further slowing our economic turnaround and depressing an already anemic job market. The technology industry is one of our Nation's bright spots and one of the fastest growing job markets. There is little dispute that innovation and job growth in this sector of our economy is a key component to America's future prosperity. Unfortunately, this is not the FCC's first attempt to regulate the Internet. For years, my colleagues and I have introduced legislation and written to the FCC asking the Commission to halt attempts to regulate the Internet unless given clear authority to do so by Congress. The message in our correspondence to the FCC has been crystal clear: Members of Congress do not believe the Commission has the current legal authority to regulate network management practices; therefore, the Commission should not act without express legislative authority. But, like other out-of-control Federal agencies, the FCC has chosen to not listen and continues to act defiantly without legislative authority.

Might I remind the bureaucrats at the FCC that as a government agency, the FCC is not elected by the people only the House, Senate, and the President are duly elected. And, as our Constitution makes clear, the authority to legislate is solely vested in the elected representatives of the American people, not five politically appointed FCC Commissioners. As such, the resolution before us today not only seeks to undo bad policy, it also seeks to restore the constitutional integrity of the Congress. If we fail to pass this resolution of disapproval, our institutional credibility will be further eroded.

Proponents of more Federal regulatory influence over the Internet argue that these rules are needed to enhance regulatory certainty. I would argue that the only uncertainty in the marketplace has been generated by the development of these unauthorized regulations. Further, if there were systemic problems in the Internet marketplace, then why provide arbitrary exemptions to coffee shops, bookstores, and airlines? Why not make these regulations universally applicable? The fact is there is no systemic problem that warrants a regulatory overreach of this

magnitude. After over a decade of practice, the facts are devoid of any global misconduct. These regulations will do more to entice companies to lobby-up, get a lawyer, and seek a regulatory competitive advantage than benefit consumers or our economy.

As the Chairman of the Federal Communications Commission has recognized, Americans have benefited enormously from the Internet's "fundamental architecture of openness." The light touch regulatory approach toward the Internet that was advanced by previous administrations—both Democratic and Republican alike—has brought Americans Twittering, social networking, low-cost long distance calling, texting, telemedicine, and over 500,000 apps for the iPhone. It also brought us YouTube, HBO GO, Kindle, the Blackberry, and the Palm. The Internet has changed our lives and our economy—forever.

By imposing onerous regulations and discouraging innovation, broadband providers will have less incentive to invest. This disincentive will result in the movement of less capital into the market, which in turn will directly result in fewer jobs created. We should reject this regulatory power grab and demand the Federal Government get out of the way and out of the business of picking winners and losers in our economy. It is for these reasons that I strongly support the resolution before us to keep the Internet free from government control and regulation.

Mr. President, I yield the floor, and I reserve the remainder of our time.

Mr. ROCKEFELLER. Mr. President, I would like to respond to some things, but I understand we only have 42 minutes remaining.

The PRESIDING OFFICER. That is correct.

Mr. ROCKEFELLER. And both Senator CANTWELL and Senator MARK UDALL want to speak. I don't want to take their time, so at this point I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There is 44 minutes.

Mrs. HUTCHISON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOOZMAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOOZMAN. Mr. President, I rise in support of S.J. Res. 6, which seeks to

put an end to the FCC's misguided net neutrality rules. The FCC's rules regulating the Internet are yet another in a series of unnecessary and economically harmful regulations from President Obama's administration. These rules will stifle innovation, investment, and ultimately jobs, and they are a continuation of this administration's obsession with picking winners and losers in almost every marketplace.

We live in a world where we no longer have to wait for the morning edition of the paper to read the latest news. We don't have to wait for a delivery from the postman to get a message from a loved one. We do not have to get in our car and head to the store to watch a movie or to shop for clothes, books, and groceries. We have the ability to do these from the comfort of our homes, thanks to the Internet. It is clear the Internet has changed the way we live. This helps promote and encourage economic growth, facilitates innovation, and reshapes the way we do business, all the while creating millions of jobs. This was able to happen because of the government's hands-off policy.

The Federal Communications Commission admits the "Internet has thrived because of its freedom and openness." Then why is this agency taking steps to limit the openness and freedom of the Internet?

Last December, the FCC voted to impose net neutrality rules to regulate the Internet. This is nothing more than the government interfering and threatening small providers and forcing networks to operate services in ways determined by unelected bureaucrats.

What is worse is the FCC is working to fix a problem it acknowledges does not exist. The agency is relying on speculation of future harm. This attack on the Internet is irresponsible and is irresponsible governing. While our economy struggles, the Internet remains a beacon of light that continues to grow, but this rule risks stifling innovation and investment in jobs.

A study by a telecom economist with the Brattle Group found that the net neutrality rules could lead to a job loss of 340,000 in the broadband industry within the next 10 years. This is not the type of policy we need to adopt, especially as our country stares at 9 percent unemployment. That is why I am supporting S.J. Res. 6, which will put a stop to the FCC's misguided net neutrality rules.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I rise today in opposition to the joint resolution of disapproval that will reject the open Internet or the net neutrality rule that was put forward this year by the Federal Communications Commission.

I am a strong supporter of the principle of network neutrality that the open Internet rule seeks to protect, and I believe we should oppose this ef-

fort to reverse the FCC order. The rule this resolution seeks to eliminate—the open Internet rule—was adopted by the FCC in December of 2010, and it will go into effect on November 20 of this year.

Simply put, this rule creates commonsense obligations and requirements for broadband Internet service providers, such as telephone and cable networks, in order to keep the Internet free and open. I know the open Internet rule will provide the certainty needed to foster job-creating investments and innovations while protecting broadband Internet consumers. Why is this important? Well, net neutrality is a way of saying the Internet ought to be free and open. It is a fundamental concept that is underpinned with some marvelous new technology that we call the Internet. This open Internet rule will make sure we hew to the concept that the Internet ought to be free and open.

We watched and are still watching as democratic uprisings topple totalitarian regimes all over the Middle East. Social networks such as Twitter and technologies such as text messaging are largely thought to facilitate the so-called Arab spring. None of that would have been possible without an open and free Internet.

I have to ask, what kind of message will we be sending to the remaining dictators—but probably even more important, those people who quest and thirst for freedom—if the citizens of the United States, through their Senate, vote to limit Americans free access to the Internet? We have to set an example for the rest of the world. The Internet must remain free and open.

The open Internet rule will achieve this by ensuring that four key Internet policies are maintained. Let me list them for my colleagues.

No. 1, it will prevent broadband Internet providers from blocking lawful Internet content or services.

No. 2, it will require transparency about broadband network management policies.

No. 3, there will be a level playing field for consumers on the Internet.

No. 4—this is important in these tough economic times we face—it will provide predictability for both broadband providers and Internet innovators.

As I have said, what is so important about this debate is that in these economic times, net neutrality is also about jobs and economic development. As I travel in my State of Colorado—and I know the Presiding Officer travels his State of New Mexico—the refrain I hear from businesses and business leaders is that they need predictability in order to invest in their companies and create good-paying American jobs.

Thousands of entrepreneurs who have built small Internet businesses can only be successful if they can reach their customers. However, if we don't preserve this net neutrality rule and content blocking is prevented, there

will not be any guarantees that the next great online innovation or pioneering application will even be able to access the Internet. For example, the next Google or Amazon or Twitter will only be able to grow and be successful if they can reach their customers without worrying about interference from broadband providers that might want to preference another more established competitor.

So what we are talking about is the FCC is promulgating a commonsense rule that will provide predictability for both the broadband providers and the Internet innovators. The certainty of knowing the rules broadband providers have to follow will give the confidence needed for investors to help the next Groupon breakthrough or many of the other numerous applications we are all familiar with online.

Innovation and job creation is what will finally lift our economy out of the slump from which we have been desperately trying to recover. We need net neutrality to ensure that innovation thrives and that the next great product, service, or way of doing business is not inhibited by market manipulations or restrictive online policies.

I came to the floor to urge my colleagues to vote against this resolution. It only serves to distract us from the hard work we have to do to foster job growth and get our economy back on track. Let's agree to cement fair and reasonable rules of the road, as the FCC rule seeks to achieve, in order to provide certainty in a climate of innovation for the next generation of job creators.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BLUNT. Mr. President, we don't use the Congressional Review Act often. In fact, I think we have only used it once successfully. But the regulators are working at a breakneck pace, and I think the overreach we see in this rule and some others that are coming out right now really requires the Congress to pay attention, requires us to revisit the reason the Congress gave itself the ability to look at rules and regulations and see if they make sense.

Simply put, on this regulation, the Federal Communications Commission lacked the legal standing to produce the order we are debating today. The net neutrality order the FCC enacted is not based on the facts or on the law. In fact, I have yet to hear credible defense of why we would want to have this massive regulatory burden. In fact, we have talked about net neutrality for several years now, and the definition continues to change because the free marketplace has driven the innovation beyond every debate we have had. The marketplace where people invest and grow the Internet and access to that Internet has meant that as soon as a debate would be engaged on this issue of so-called net neutrality, it no longer mattered. I think that is what we see

here as well. But it will begin to matter if we begin to manage the Internet in a way that slows down investment, that slows down innovation.

Three years ago, the FCC attempted to reach far beyond any legislative mandate they had to regulate the Internet through a rule. Last year, a Federal court struck down that rule, saying the Commission had no authority to do so. Now we find ourselves debating a measure which in a roundabout way attempts to accomplish the same end with a result that might be disguised in some other way. The Commission is using a provision of the Communications Act, which was enacted to allow the FCC to "remove barriers to infrastructure investment." Why would we want to do that? Why would we want to remove barriers to infrastructure investment? Why would we have passed that law? Because we want to encourage infrastructure investment by removing barriers. The basis the FCC is using was actually deregulatory, not regulatory. They are basing this on a law that said they could do something 180 degrees different from what this rule would do.

Repeated government economic analysis has reached the same conclusion: There is no concentration; there are no abuses of market power in the broadband space. And even if there were, we have a lot of laws to deal with that. We have antitrust laws. We have consumer protection laws. There are plenty of ways to approach that if it happens, but nobody thinks it is happening.

The Commission, like many other Federal agencies, has often been put in a position where one industry competitor is being asked for a regulation that somehow would benefit them in their competition with somebody else. This order would greatly increase the frequency of those requests.

This order puts the FCC in a position of constantly having to monitor new innovations on the Internet.

One of the FCC Commissioners who didn't agree with this order clearly laid out the dissent when he said this. This is a quote from Commissioner McDowell:

Using these new rules as a weapon, politically favored companies will be able to pressure three political appointees to regulate their rivals to gain competitive advantages. Litigation will subplant innovation. Instead of investing in tomorrow's technologies, precious capital will be diverted to pay lawyers' fees. The era of Internet regulatory arbitrage has dawned, and to say that today's rules don't regulate the Internet is like saying that regulating highway on-ramps, off-ramps, and its pavement doesn't equate to regulating the highways themselves.

In releasing the net neutrality order, the FCC charted itself on a collision course with the legislative branch as well as with the Federal judiciary, which has already struck down a similar attempt to regulate this sector by the FCC. They stated unequivocally in that attempt that the FCC lacked the standing to do so.

This is a solution that is really searching for a problem. Let me guarantee that whatever anybody thinks the problem is right now, that will not be the problem 6 months from now unless we figure out how to slow down innovation in this area and suddenly we are dealing in a static environment instead of a dynamic environment.

Even if there were a legal basis for this legislation, we still cannot get away from the fact that it is a massive and unnecessary overreach into the private sector, which has thrived while our overall economy has slowed and stalled.

In 2003, only 15 percent of Americans had access to broadband. According to the Commission's own National Broadband Plan, last year 95 percent of Americans had access to broadband. Between 2003 to 2010, 15 percent to 95 percent—it sounds to me as if that access is doing what you want it to do and occurring how you want it to occur. Fixed and mobile broadband Internet access, expanded and improved upon by the private sector, is the fastest growing technology in history. In only 7 years, 95 percent of Americans got to where 15 percent were 7 years earlier.

Competition in this field is robust. Technology advances, network build-out, and infrastructure improvements are happening quickly, to the tune of billions of dollars of investment and innovation and an ever-expanding array of applications for consumers. More competition is on the way as providers make use of increased amounts of spectrum coming online and lay new networks of fiber to connect Americans in rural areas in the country.

The telecommunications sector contributes more than \$60 billion annually to our economy. Net neutrality would slow that down.

With the order that was set forth, the Commission will begin to speculate on what might happen as opposed to what clearly is happening.

First, the kind of anticompetitive action the Commission seeks to remedy is already illegal.

Second, the competition in this space is far too fierce. Their rule is far too repressive. Most Americans already have two options for wired broadband access at work or at home, and the number of wireless competitors available is exponentially higher.

No government has ever succeeded in mandating investment and innovation, and until this order nothing has held back Internet investment and innovation in this country, and that is why it has done so well.

Broadband buildout is a thriving success story on which virtually all Americans now count. We now even take it for granted. It is incumbent upon us to look at this rule to understand the negative impact it will have on a thriving way to communicate, to do business, and to talk to each other, and to reject this rule and let this system continue to develop with the same innovation,

the same intensity, and the same incredible success it has had in the past 7 years.

I yield the floor.

The PRESIDING OFFICER (Mr. CARDIN). The Senator from Texas.

Mrs. HUTCHISON. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There is 19½ minutes remaining.

Mrs. HUTCHISON. I Thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I yield up to 5 minutes of our time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from Texas for the time. This is a critical subject she is dealing with right now, but the thing in common is the problem we are having right now with regulation. I think we are going to be talking about that this afternoon.

I only wanted to get one thing in, and that is about something the Chair is fully aware of because he was there all morning. Something very significant happened this morning. In our Environment and Public Works Committee we passed out a highway reauthorization bill. We have not done this since 2005, and this morning we did. This is one where we sat down—one of the few times that Democrats, Republicans, liberals, conservatives, can get in a room and hammer out their differences and get things done. I wish the committee would be successful in doing that as we were this morning in getting a highway bill. So we are going to have a highway bill at the current spending level which, if my colleagues remember back in 2005, it was \$286.4 billion, and that was for a 5-year bill. That spending level right now would be, to sustain that, somewhere between \$40 billion and \$42 billion a year for 2 years. This is a 2-year bill, and the 2-year bill cannot pass until we locate an additional \$12 billion to make this happen. I think a lot of us don't want to take what would constitute a 34-percent cut in funding for our roads and highways and bridges throughout America and be able to sustain that. This is a life-and-death type of issue.

I wanted to say how proud I am of the staff and of every Democrat and every Republican on the Environment and Public Works Committee who made this happen this morning. So while we have much more we are concerned about, I think it shouldn't go unnoticed at this time that we have now started that ball rolling and that is good news.

One last thing I wish to say about overregulation. When we talk about

the jobs bill—and we always are talking about revenue and jobs and all of this—we seem to forget that the overregulation is costing us a lot. I can remember fighting the cap-and-trade bills ever since back during the Kyoto convention, and impressing upon people that the bills being offered would cost between \$300 billion and \$400 billion a year. That is every year, not just the first year. Right now, since they have not been able to pass that here, they are trying to do that with regulations through the Environmental Protection Agency. Congressman FRED UPTON over in the House and I had legislation that would take away the jurisdiction of the EPA to get this done. I think this is going to be offered as an amendment this afternoon. I think it is very critical that we pass that.

I thank the Senator from Texas for giving me this time.

I yield the floor.

Mrs. HUTCHISON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. I Ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. I yield up to 7 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. I thank the Chair. I thank Senator HUTCHISON for her efforts here in stopping another regulatory nightmare. I am beginning to think the FCC stands for Fabricating a Crisis Commission because they are trying to create a new regulation for a problem that does not exist. The overriding problem here is, as the government intervenes increasingly into the Internet and the investment in the Internet, that investment is going to dry up as uncertainty is increased.

I have seen in my State where private investors have put together the money with companies to put down broadband in rural areas only to find that there are some companies operating with a government grant or some government money to compete with them.

Under President Obama, the FCC has become an activist bureaucracy that is inventing a crisis here in order to take control of the Internet.

The Internet is one thing in our country that is working vibrantly. It is a showcase of free enterprise. It does not need to be regulated. For years liberals have warned us that, if the government does not take action, the Internet will not be competitive or accessible. The opposite has happened. More people are using the Internet and have access to cutting-edge technology and devices than ever.

This is yet another misguided big-government solution in search of a

problem. Last year, the courts ruled in the Comcast decision that the FCC does not have the authority to mandate how private companies can enter into business agreements and limit the ways they provide Internet services. The FCC did not learn its lesson and instead is at it again with its Open Internet Order, which is vague, baseless, and built on an even weaker legal foundation than their activities in Comcast. Congress did not authorize such actions and the courts have ruled against them. The FCC should not try to get around it by redefining clear legislative language passed by Congress.

There has been no demonstrable harm to which the FCC needs to respond. They cannot give us a case where competition is not growing, where the expansion of broadband is not growing. In fact, new technologies are exceeding the pace that the FCC can even keep up with.

We do not need to come in and slow down the growth. If the FCC wants to take action, it should prove there is legitimate harm in the marketplace. The Department of Justice and the Federal Trade Commission have a number of laws and regulations to enforce in the name of protecting consumers who use the Internet and competition among companies involved in the market. If those laws are lacking, the FCC should show how and ask Congress to provide it with statutory authority.

The FCC has not done so. They have not shown us that harm has taken place and that they need to take control, essentially, of the Internet. Congress has yet again been cut out of the picture, and many of my colleagues in the majority seem comfortable with abandoning their role. The FCC's bad logic needs to be recognized. They admit these new rules were not imposed due to any previous or existing wrongdoing. That is important for us to recognize.

If a regulatory agency is issuing an order that intervenes into the private sector, there needs to be some substantial harm being addressed. The FCC claims the government must regulate the Internet in order to protect consumers from future harms that could occur. That is not the point of the regulatory structure.

I heard all of these arguments back in 2006 when the Senate was debating how to update our telecommunications laws. If the regulation advocates had won in 2006, today we would have the Internet of 2006. I do not want the Internet of 2006 in 2011, and I do not want the Internet of 2011 in 2016. I want it to grow and improve and evolve just as it is doing now. The government cannot possibly manage the development of the Internet, which the FCC is trying to do.

The Internet does not need a government stimulus. It is a free market industry that is working. Right now, the technology sector has a 3.3-percent unemployment rate, far below the national average. Over the years, communications companies have invested

hundreds of billions of dollars in broadband technology and development, and no deficit-expanding stimulus was required!

If the government really wants to allow the Internet and related businesses to prosper and thrive, it should stay out of it. The Internet is not broken, but our government is. The private telecommunications sector knows how to create jobs; our government does not. The things that work best in our society—businesses, charities, volunteer organizations—are the things that government does not control. Consumers should be in control, not unelected activist bureaucrats intent on taking over the most successful parts of our economy.

I encourage my colleagues to support this resolution to undo the FCC's power grab. Three unelected bureaucrats should not be permitted to simply give themselves the power to regulate the Internet's infrastructure in the face of clear statutory language directing them to do just the opposite.

The FCC should not be permitted to circumvent Congress and essentially enact laws that will impact vital services we all depend on. To keep the Internet economy thriving, this decision must be reversed. I commend Senator HUTCHISON for bringing this up and using the powers of Congress to take back control of our legislative responsibility.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator has 18 minutes under his control.

Mr. ROCKEFELLER. I would yield it to the distinguished Senator from Washington.

Ms. CANTWELL. I thank the chairman of the Commerce Committee for his leadership on this important issue. I am glad to be on the Senate floor to set the record straight because we are here to talk about Internet freedom and about making sure the Internet does not have undue costs and expenses for consumers.

If you liked TARP and you liked the bailout of the big banks, well, guess what. Then you should vote for this resolution because this resolution is about whether you are going to let the communications companies that want to make the Internet more expensive by various technologies have their way.

If you believe the FCC should establish some rules to protect the freedom of the Internet, then you should oppose the Hutchison resolution. I prefer legislation that I have introduced, and some of my colleagues support, called the Freedom of the Internet Act, that goes further than what the Federal Communications Commission has done to implement true net neutrality. I would prefer that, and maybe in the future my colleagues will be working on such legislation.

But as it is today, the Federal Communications Commission has taken a half step, if you will, by proposing some rules that will set in place some protections for consumers to make sure they are protected on important aspects of keeping Internet costs down. The problem with the FCC rules is they only apply in some cases to fixed broadband and not to mobile broadband.

So if you think about it this way, the Internet is moving to a mobile broadband platform; that is, our handheld devices, whether they are a BlackBerry or phone or what have you. So many more Americans are accessing the Internet that way. So the FCC has come up with rules on transparency and no blocking; that is, to make sure no content is blocked or slowed down for any undue cost or reason, and a nondiscrimination rule.

Unfortunately, those two last points, no blocking and unreasonable discrimination, do not apply to the mobile side. So we have work to do to make sure the youth of America who are consuming so much content online through their mobile devices are not going to be artificially charged more or slowed down in their access all because the telecommunications industry wants to have its way with the Internet.

My colleagues have been out here talking about innovation. I can tell you, the Internet has had a ton of innovation and a ton of content creation, all because there has been an even playing field and net neutrality. The fact now is that the telecommunications companies are debating an important issue, and the lines get blurred between telecommunications and the Internet, and it is clear we do not have all of the rules in place to make sure consumer interests are protected.

But today we have one thing: the FCC rules that are trying to slow down telecommunication companies from artificially either blocking or making content on the Internet more expensive. Again, when we go to the mobile phone model and we are being charged for time and data transfer, the fact that the data transfer and time take longer means we are going to have more expensive phone bills. That is why I said it was TARP-like, because the "cha-ching" we are going to hear from the phone companies on the money they are going to make from this is unbelievable.

So thank God the FCC took a half step and said: Whoa. Slow down. We are not going to let you do that. That is why people like Vint Cerf and Tim Berners-Lee, the architects and inventors pushing the Internet, have said what a bad idea it is to not make sure that net neutrality is the law of the land.

I notice my colleague who just spoke said, well, there have not been any problems. There have not been any issues. I read the online publications. Larry Lessig, someone I trust, was re-

counting in one of his interviews exactly what happened. Comcast went in and basically blocked large data files of peer-to-peer transfer, what is called bit torrent traffic.

First, Comcast said: No, no. We do not do that. We did not block that. We do not do it. But when it was basically found out that they did, they said: Oh, no, we did not block it. We just slowed it down. They sent little messages, as Mr. Lessig says in his article, to the Internet traffic to confuse the recipient and basically disrupt their traffic. OK? So that is what is happening.

These providers think if they can control the pipe, now they can also control the flow. It is also, as Mr. Lessig said later in this article, as if the entire electricity grid, our refrigerators and our toasters and our dryers, all of a sudden would start charging different rates on different things because the electricity company would decide it had the ability to charge different rates. Would we put up with that? No, we would not put up with that.

So why would we put up with allowing telcos to run at will on the Internet charging consumers anything they want based on the fact that they think they have the control of the switch?

I am so proud the chairman, Senator ROCKEFELLER, has led this fight for the freedom of the Internet to drive down costs, to keep innovation, and to protect net neutrality. The FCC rules do not go far enough. We cannot continue to have this half step and not clearly, on the mobile side, give consumers the protection they need.

But for today, if you want to vote with Internet consumers and Internet users on driving down the costs of the Internet, then vote against this resolution and keep the minimal FCC rules in place until we can get stronger legislation passed. Make no mistake about it, the other side is talking about, well, they do not want to regulate the Internet. That is true. They do not want to regulate telcos that want to take advantage of the fact that they own the pipe and can charge a lot more.

I am glad the FCC at least took this measure. We should make sure it stands until we can even get stronger Internet freedom protection.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank the distinguished Senator for her remarks and actually fully agree with them in that mobile is kind of left alone, and it should not be because it is everything that is happening in the future. But it is a step, and it was a wonderful speech.

It occurs to me that I do not think we have anybody left to speak on this side. I am not sure about Senator HUTCHISON, but it may be a good time to yield back our time.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mrs. HUTCHISON. Mr. President, I would like to just wrap up, and then I will yield back the rest of our time and we can close this debate because our vote is going to come tomorrow.

I just want to summarize what we have heard today. I just heard the distinguished Senator from Washington State say that without net neutrality we would have more expense to consumers. I really do view this in a different way because I view the potential delay, the regulatory processes, the hurdles that are going to have to be overcome for any kind of preclearance to put a new product on the Internet, gatekeeping for innovation—that is what, in my opinion, is going to increase the cost and cause delays if not freeze many of the innovations that have occurred in our open Internet system.

We now have, because of the FCC's ruling, the requirement for reasonable standards for access to the Internet. There is no definition of "reasonable." I heard the Senator from Minnesota say we need net neutrality in order for Google, YouTube, Facebook, and Twitter to be able to grow and prosper. Those entities have grown and prospered—without net neutrality regulations. They have grown and prospered because we have had free and open access to the Internet. We and our competitors and our businesses that compete overseas have had open and free access. That has been the beauty of the success of the Internet.

Now we see government coming in and saying: You have to be reasonable in what you offer. So if there is a major dump of millions of pages onto the Internet and it is going to slow down, for instance, a hospital network offering rural health care on an emergency basis or some kind of video-streaming that is going out, we have to be able to let the providers have the judgment and let the marketplace work. If there is a problem it was not pointed out by the FCC when they decided to intervene in the Internet among 134 pages of regulations with just 3 paragraphs about possible problems, all of which concluded with the rules that are in place today.

This is clearly a problem that isn't there, which is being manufactured in order to put another government regulation on the books. When the Senator from Massachusetts said this order doesn't regulate the Internet, just the gateways or the on-ramps, that doesn't hold water because if we regulate the on-ramp, we are regulating the Internet. We are causing companies that are providing broadband to not have control of their networks but instead will now have to go before the FCC to justify a new product or service that will give emergency access or quicker access for users who need to have that kind of access.

I hope the Senate will say the FCC has extended beyond any authority

Congress has given them, and I hope we will stand for our prerogative in Congress to make the laws and only have regulations come out when we delegate specifically to an agency to put out rules in a particular area, which has not happened in this case.

I urge my colleagues to support this resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, before I yield all time back on our side, I have listened to the entirety of this debate. It seems to me it has been fairly clear that on one side the government regulates and messes things up, and on the other side things are going swimmingly.

I can't help but pay attention to all those people out at TechNet, the AT&T people, Moody's, Hamilton's, and all these people who take a very dour view of government intervention and a very sensitive view as to whether that intervention is in any way going to stop investment. The answer is usually it does. That is why I feel very happy that this was referred to by a number of major players in this field as a very "light touch" of regulation, which gave them a sense of where they were going to be, how far down they could look toward their future and therefore allow them to invest the money they wanted to invest.

That is not to say they would not have done it anyway. But there is nothing like encouraging capital investment in something as important as the Internet. I think the net neutrality legislation does that very well. I hope when we vote on it tomorrow, it will not pass.

Having said that, I yield back all time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. ROCKEFELLER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

3% WITHHOLDING REPEAL AND JOB CREATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 674, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 674) to amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs, and for other purposes.

Pending:

Reid (for Tester) amendment No. 927, to amend the Internal Revenue Code of 1986 to permit a 100-percent levy for payments to Federal vendors relating to property, to require a study on how to reduce the amount of Federal taxes owed but not paid by Federal contractors, and to make certain improvements in the laws relating to the employment and training of veterans.

AMENDMENT NO. 928 TO AMENDMENT NO. 927

(Purpose: To provide American jobs through economic growth)

Mr. MCCAIN. Mr. President, I call up my amendment numbered 928.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 928 to Amendment No. 927.

(The amendment is printed in the RECORD of Tuesday, November 8, 2011, under "Text of Amendments.")

Mr. MCCAIN. Mr. President, I ask unanimous consent to enter into a colloquy with my Republican colleague, the Senator from Kentucky, Mr. PAUL, and the Senator from Ohio, Mr. PORTMAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I feel it is very important that we spend some time on this issue. I think all Americans realize we are in almost unprecedented difficult economic times, and that despite efforts that have been made over the now nearly 3 years, our economy has not grown and it has not provided the kind of job growth and opportunity many of us had anticipated.

When we look at previous recessions—and this is a near depression by some calculations—the recovery has been amazingly and agonizingly slow as compared to recoveries from other recessionary periods.

In the view of this Senator, the remedies have, in many respects, made the problem worse rather than better. If we look at some objective criteria, I argue that the situation in America today is worse than it was on January 2009, when this administration came to office. We have had the stimulus package, the Health Care Reform Act, increases in spending in numerous areas, and the Dodd-Frank bill, which was going to fix the regulatory system in this country to prevent any financial institution in America from ever again being too big to fail—in other words, no financial institution would ever need taxpayer dollars to the degree that America's economy would be impacted adversely in case that institution failed.

Well, here we are. Here we are, nearly 3 years later, and unemployment is at 9 percent, even though after the stimulus package was passed all the predictions were that maximum unemployment would be 8 percent and headed down. The recovery has been anemic. In my home State of Arizona, still nearly half the homes are under water. In other words, they are worth less than the mortgage payments the homeowners are required to make.