Intelligence Squared U.S.

Preserve Net Neutrality: All Data is Created Equal

For the Motion: Mitchell Baker, Tom Wheeler
Against the Motion: Nick Gillespie, Michael Katz
Moderator: John Donvan

AUDIENCE RESULTS

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[applause]

Between you and the Internet stands a company. Maybe it is called Verizon, or AT&T, or Comcast, or Cox. That last piece of the pipeline connecting you to the world -- it belongs to them, your Internet service provider. And in that inescapable relationship, what rights belong to you? What rights belong to them? Net neutrality is the idea -- as most people understand it -- that ISPs are practically public utilities and should have almost no right to limit where you can go on the Internet or the speed at which content creators can get their data to you. They cannot, for example, make you pay more to connect with Facebook or shut you out of Facebook altogether. They can't make Netflix pay extra to move its video at a decent speed, a cost that would surely get passed onto you. The Obama Administration liked net neutrality and made it the rule.
The Trump administration repealed it, its main argument being that net neutrality is a soft idea. It is unnecessary regulation, and it is detrimental to innovation. So, which is it? Well, with lawsuits coming in response to the Trump repeal and actions in at least 20 states across the nation, we think this sounds like it has the makings of a debate. So, let's have it. Yes or no to this statement: Preserve Net Neutrality: All Data is Created Equal. I'm John Donvan, and I stand between two teams of two experts in this topic, who will argue for and against that resolution. As always, our debate will go in three rounds. And then our audience here, at the Northwestern Pritzker School of Law in Chicago, will choose the winner. And if all goes well, as always, civil discourse will win as well. Our motion is this: Preserve Net Neutrality: All Data is Created Equal. Let's meet the team first arguing for the motion, starting, ladies and gentlemen, with Mitchell Baker.

00:02:00

[applause]

Hi, Mitchell. Welcome to Intelligence Squared. You are executive chairwoman of Mozilla, the maker of Firefox. Folks, if you like Firefox, she's on the team that gave it to you. You have been named one of --

[applause]

-- one of Time Magazine's most -- 100 most influential people in 2012, inducted into the Internet Hall of Fame. Mitchell, you are often described as an advocate for the Open Web and open source. But in a sentence or two, what exactly does that mean?

Mitchell Baker:

[laughs] Well, the open source is a really collaborative and sharing development practice, and the open Internet is, as we know, the Internet that we've been accustomed to. And I'm drawn to them because they have opportunity for all of us.

John Donvan:

Okay. Thanks very much. And can you please tell us who your partner is tonight?

Mitchell Baker:

Yes. My partner is the mighty Tom Wheeler.

John Donvan:

Ladies and gentlemen, Tom Wheeler.

[applause]

So, Tom, you were chairman of the FCC under President Obama.
It was during your tenure that net neutrality regulations were put into place. You have also been president of the National Cable Television Association, CEO of Cellular Telecommunications and Internet Association. When President Obama announced your nomination to the FCC, he said you were the Bo Jackson of Telecom. For those don't know, who is Bo Jackson, and what did Obama mean by that?

Tom Wheeler:
[laughs] Well, John, he played here in Chicago.

John Donvan:
Yeah. [inaudible] --

Tom Wheeler:
I mean, you know, so, let's start there. But Bo Jackson, the only professional athlete to play both professional football and professional baseball and be an all-star in both. However, I do think the president was probably engaged in a little over-the-top rhetoric --

John Donvan:
[laughs] All right.

Tom Wheeler:
-- when he said that.

John Donvan:
Thank you. Again, the team, ladies and gentlemen, arguing for the motion.

[applause]

And we have two debaters arguing against it. Please first welcome Nick Gillespie.

[applause]

Nick, welcome back to Intelligence Squared --

Nick Gillespie:
Thank you.

John Donvan:
-- one of our favorite debaters. You're editor at large of Reason, co-host of the Reason podcast -- widely seen as one of the foremost libertarians in America. You've been named --
Nick Gillespie:
By the way, that's called being damned with faint praise. But thank you very much.

John Donvan:
[laughs] According to your organization's website, you are “almost certainly the only journalist
to have interviewed both Ozzy Osborne and Nobel laureates like Milton Friedman and Vernon
Smith,” and recently you sat down with current FCC Chairman Ajit Pai. What's the theme that
unifies all of these people?

Nick Gillespie:
You know, I didn't know this going in, but they have all bitten the heads off of bats.

[laughter]

John Donvan:
We did not know that till this moment.

Nick Gillespie:
And now it's out.

John Donvan:
Tell us, please, who is your partner.

Nick Gillespie:
My partner is Michael Katz.

John Donvan:
Ladies and gentlemen, Michael Katz.

[applause]

John Donvan:
Michael, you are our economist.

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You're an economics professor at UC-Berkeley. During the Clinton administration, you were
also at the FCC as chief economist. You served at the Justice Department. At Berkeley, as I
said, you're an economics professor there. But we have a question for you that maybe a lot of
people in this room will relate to, or not. Can you remember the very first time you had an
interaction with the internet?
Michael Katz:
Actually, barely, because it's over 30 years ago, but it was using something called Gopher. It actually was aptly named, because you were burrowing around in the mud to try to find things on the internet, because this was all pre-World Wide Web. And so, I'm someone who can testify to you the value of the web and how incredibly more convenient it is and powerful than it was when it started. So, it's not just about the underlying infrastructure and the internet; it's about what goes on top of it as well.

John Donvan:
Okay, thank you, Michael Katz. And again, the team arguing against the motion.

[applause]

John Donvan:
And so, to the debate itself.

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We move on to round one. Round one is opening statements by each debater in turn. They will be six minutes each, and, Tom, you can make your way to the lectern. Speaking up first for the motion, in support of the motion Preserve Net Neutrality: All Data Is Created Equal, former FCC Chairman Tom Wheeler. Ladies and gentlemen, Tom Wheeler.

[applause]

Tom Wheeler:
Thank you. So, thank you, ladies and gentlemen, and we're here to urge you to support the proposition for three simple and straightforward reasons. Number one: The internet is the most powerful and pervasive platform on the planet. It does everything from deliver the world's knowledge to allow us to get a pizza delivered. It has changed our economy; it has changed the way we live each of our lives.

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But -- second point -- when we go to access the internet, the company that provides that service is typically a local monopoly. When we were doing our rulemaking, we found that three quarters of American households had at most one choice when it came to high-speed broadband internet connectivity. And that leads to the third point. You've got a very important and crucial asset in the internet. The access to it is not competitive; therefore, there needs to be rules. And the question is who makes the rules? Now, the network providers say, “Trust us, we'll make the rules,” but I think what we'll find in the discussion tonight is that history does not substantiate that trust.

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You know, Michael was talking about the age of the internet. It's actually about 35 years old. And for the first 25 years, net neutrality reigned, because we all remember the squeaky, screeching modems that you had to plug into your phone jack in your house to connect your computer to the telephone network to get to the internet. Well, that telephone network was a common carrier, and that meant that it had to take whoever came to it and deliver them to their destination. That's an important point that we'll talk a lot about tonight, this concept of common carrier which says, “First come, first serve nondiscriminatory access.”

And it's only been in the last eight or 10 years that this whole debate about net neutrality has developed, because when the new digital networks came along, those who own those networks said, “Oh, wait a minute. This is different. This is -- this is different," and it needs to regulated differently. And the FCC, under both Republican and Democratic administrations, tried to work its way through that. Let me give you an example. 2007, under a Republican FCC, Comcast decided to degrade the video coming in over the Internet that competed with their cable service. The FCC said, "No, no, no, no." The Republican FCC said, "No, no, no." Comcast took them to court and said to the court, "Hey, we can discriminate because we're not a common carrier."

And the court said, "You're right," and overruled the FCC. In 2010, when my predecessor came out with the first open Internet rule, Verizon sued, went to the court, and stood in the well of the court. And the lawyer said to the judges, "I have been instructed by my client that I may say that the reason why we are suing is we intend to discriminate," and there is the key issue in all of this. Should these local companies be allowed to discriminate in access to the most important network of the 21st century? I had the privilege, as John said, of chairing the FCC in 2015 when we said, "No. It should be -- you should be a common carrier and you should provide nondiscriminatory access to anyone who wants to get to or from the Internet."

And that's what the debate is about tonight because my worthy opponents want us to go back to the bad old days of discrimination. And what we need to be focusing on is a nondiscriminatory equal access to the network. One quick closing thought; last week we saw a lot of discussion about how much information Facebook has about each of us. Facebook is one website. The network that connects you to the Internet knows your traffic to every website. Your private information is known by the network and, unless there is common carriage net neutrality, there is no responsibility that they have to protect your privacy.
So, because of the fact that we don't have a competitive market, because of the fact that history says it worked early on and discrimination happened when it didn't exist, and because of the fact that your privacy ought to be protected, we urge you to strongly and enthusiastically support this resolution tonight. Thank you.

John Donvan:
Thank you, Tom Wheeler.

[applause]

John Donvan:
Our next debater will be opening against the motion, "Preserve Net Neutrality: All Data is Created Equal." He is speaking against. Here is Nick Gillespie, editor at large of Reason. Ladies and gentlemen, Nick Gillespie.

[applause]

Nick Gillespie:
Thanks. Thank you very much. Wow, you know, Tom -- well, vote against net neutrality, and the reason why is because -- you remember the Patriot Act, right?

00:13:03

The Patriot Act, who could be against the Patriot Act? It's for Patriots. It's good, it's good. Net neutrality is good. It's -- you know, everybody's neutral, everybody's fair, that's great. We are not so dumb as to think that laws and policies -- their names almost always mean the exact opposite thing. And what net neutrality has ultimately been, and I'll go into this in a little bit more detail, and Michael will really drive it home because he's the economist. I don't do math, unfortunately. But, you know, what net neutrality is about is about the government being able to say, "We get to control your business model." Tom was talking about common carriers. I see a lot of young people out here. I see acres of diamonds out here. I see some old people. How many remember the great common carrier bell telephone? Okay, a number of you. That's not -- that's the past. That's the pre-Internet past, and when you have common carrier, you get bad service.

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Do people remember Lily Tomlin, the comedian? She -- one of her big bits was that she would be a phone service operator and she would say, "We don't have to give you customer service because we're the phone company and we don't want to. That's the world of common carrier, as it is historically done. But to go into my prepared remarks, you know, first I want to thank John and IQ-squared for having me back. The first time that I debated in one of these, all I had to do was defend drug dealers -- heroin dealers who wanted to put vending machines in grammar schools, things like that.
And now it's like they've really made it much harder for me, because somehow I'm going to -- I have to support ISPs. Do any of you love your ISPs? No. Right? I mean, we all hate these types of people. They're necessary evils. But they are businesses, and our lives are better because of the Internet, and they are not the problem here.

And net neutrality is -- in the word of Ajit Pai -- the policy of it, not the concept -- the policy -- Ajit Pai actually told me in an interview in 2014 that it's a solution that won't work to a problem that doesn't exist. And I want to just kind of unpack that in my opening statement. It's -- let's look at, first, at how it's a problem that doesn't exist. How many of you have had major troubles or persistent troubles with accessing any legal content online? Okay. Nobody, right? That's one of -- you know, if that would happen, you know, that would be a violation of net neutrality. We have a before, during, and after sequence now, because the open Internet ruling that Tom put into place was in place for two years. We had time before it, during it, and after it. Have you noticed massive changes, other than constantly increasing speeds, in what you can you do online?

No. Net neutrality is a concept. It is not a problem. There -- back in 2004, 2005, Michael Powell, a former FCC commissioner, said, you know, there are basically four freedoms or four rights that define a kind of good Internet, an open Internet. And they were, among other things -- one was the right to access legal content. You have the freedom -- the right to access legal content. You have the right to access applications that don't -- applications online that don't hurt the network, or to put them online. You have the right to attach devices to the network -- you know, phone -- cameras, all sorts of stuff -- which, by the way, going back to common carrier, that was one of the things; Bell Telephone never let anybody attach anything to the network because it was common carrier. They got to -- you know, it was a government monopoly, a government-supported monopoly. They got to call all the shots.

We have the right to attach devices to the network, and we have the right to get information on our plan. We should be able to talk to our ISPs and say, you know, "What's going on? Are you blocking certain sites? Are you changing things up? Are you not allowing me? Why are my expected speeds going up and down?" Contrary to what Tom said, 98 percent of Americans, according to the FCC's own data -- from the end of 2016 -- they -- 98 percent of us have a choice of at least two ISPs offering 10-megabyte download speed. That's not great, but it's pretty good. 56 percent of us -- and it's more than enough for virtually everything most of us
do, unless you're doing some unauthorized surgery. And if you are, I'm a libertarian, so more power to you.

[laughter]

But you probably want to upgrade to a better package. 56 percent of us have download speeds of 25 megabytes or higher, with more than two competing ISPs working for your business.

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That's very good. And that's up from 40 percent six months before. What we are seeing are more ISPs offering more service to more households at higher speeds. There is not a problem with net neutrality. There is not a problem with throttling or blocking sites. So, there isn't a problem. But -- well, the solutions to this problem that don't exist -- this is why they don't work. In the end, what net neutrality comes down to is the FCC says, "Under certain types of regulatory laws, we get to regulate your business model. We're not going to tell you whether you're right or wrong, but go ahead and try, and then we'll get back to you." That is an awful, awful way to regulate any kind of business. It chokes off all sorts of innovation. And it ends the sort of permission-less innovation, which is the absolute calling card both of the Internet as well as the sharing economy. I will stop there.

00:19:00

Thanks, and again, vote against net neutrality if you believe in free speech, innovation, and a better America.

[applause]

John Donvan:

[applause]

Mitchell Baker:
Support net neutrality. It affects the internet and our lives in three ways. One, who decides and controls what we can see and do online. Two, who decides whether new products are successful and what direction innovation takes. Three, it decides the amount of discrimination and self-dealing that sits at the core of the network of everything we do. So, first, who decides what we see and can do online? When we click on a link or select an app, what happens?

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Do we get to see the site or the application we’re aiming for, or is it suddenly not available? Without net neutrality, it does not need to be available to you. It's kind of odd to think that part of the internet might not be there, but that's part of the discussion we’re talking about. That's called in the net neutrality world “blocking”. Or when you click on that link or select an app, maybe the site appears, but it's slow. It's really slow. Or the delivery of that information to you is so degraded that it's maybe even unusable; it’s too jittery; it’s too slow. The application doesn’t work. That in the net neutrality world is called discrimination, and it is the point of what we're talking about. Now, an ISP -- Comcast, Verizon, AT&T -- you know, they can discriminate really on any reason. They can discriminate because they own a different product, and they think they'll make more money out of it. That's an innovative business model of the type we just heard about.

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It is only good for the ISP. Or the ISP could discriminate against the app that you want to access because they have some sort of business arrangement, or maybe they're fighting with a company that makes your app, or they could discriminate against the app you want to get to because they don't like those kinds of apps. You know, they weren’t very happy about internet telephony, because it didn't make money. Or they could discriminate because they don't like the content. Any of these things are included in the discrimination or the kinds of new business models that our opposition argues for. So, one, our choice as consumers and citizens on the internet get severely limited without net neutrality. Two, who decides what kind of innovation and new products can be successful? That's the reverse of the topic. Say I'm an app developer, and I'm developing something new. Let's say, you know, it's something that's more secure. There's new cryptographic data; I can help you do what you want with your data but leak less of it, so you control it more.

00:22:02

Now, if the ISPs don't need to serve that to you, then I somehow have to find a way that I can make my product available to you. And as John said at the beginning, that way is through the ISP. There is no other way. So, before I can offer my product to you, I have to offer it to the ISPs, and I have to convince them or get their approval to deliver it to you, and to deliver it to you quickly enough to make it usable. So, now, as an app developer, my first customer is not you. My first customer is the ISP. Maybe it wants money; maybe I can find money and pay them. Maybe it wants data. Like, if the ISP doesn’t like my product because competing products give them data, then my product is not good for them, and they can say, “I'm not going to deliver it to customers.” You know, if you change your data practices, maybe I will. And so, in that case, I, as that the developer, cannot make the product I want for you. I cannot make it more secure.

00:23:01
And then I have to go to all the other ISPs and have the same discussion. So, the ability for innovation to cover a wide range is deeply limited. The lack of net neutrality is great for innovation for the ISPs -- five companies; even 10 if you double it in America -- and it is terrible for all the rest of us. And all the innovative business models that might come out of everyone except the ISPs get limited by what works for the ISPs. And the third question, how much discrimination do we want in the network that is the basis for all of our activities? So, Comcast owns NBC. That’s a lot of content. The whole point of not having net neutrality is that the ISPs can have “innovative business models” that benefits the content they like and profit from. So, maybe if you’re a Comcast subscriber, and that’s your option, you’ll start to see a lot of content that’s good for Comcast. If you’re an AT&T subscriber, they’re trying to buy Time Warner, which includes CNN.

So, maybe you’ll start to get discrimination from AT&T with a different set of content. Or maybe Time Warner can’t buy CNN because the government won’t let it. Maybe it buys Sinclair News instead, and then if you live in a part of the country where there’s AT&T as your choice, and AT&T is discriminating and trying innovative new business models with all the content that it owns, you may very well find your channels of information, including your news, tuned for the new business model that's profitable. Now, sometimes people say to me, "Oh, that's crazy. You know, businesses wouldn't do that." But, you know, people told me that when I first started talking about the dangers of Facebook and data, and that was nearly a decade ago. And so, these sort of crazy "businesses would never do that" things have a way of happening.

It might take another decade for these things to play out and we see what it looks like to have discrimination built in, but we are making the rules now. Does the next decade play out with a neutral network that delivers information to us based on where we find value, or does this small set of companies get to preselect what we see? And so, I urge you. I hope you find the preciousness of neutrality in our infrastructure and take action. Support the motion. Support net neutrality. All data is created equal. Thank you.

John Donvan:
Thank you, Mitchell Baker.

And that is the resolution, "Preserve Net Neutrality: All Data is Created Equal." And here to make his opening statement against the motion, Michael Katz, professor at UC Berkeley, and former FCC chief economist. Ladies and gentlemen, Michael Katz.
Michael Katz:
Well, you know, advocates of net neutrality are always telling us about the great things its intended to do, things like promote free speech and competition and innovation.

00:26:08

But, although I vaguely remember when I first used the Internet, I still remember sitting on my grandmother's knee as a small baby, and she said to me -- she goes, "Michel, the information superhighway to hell is paved with good intentions."

[laughter]

So, what I want to do is, instead of talking about intentions, I want to talk about the -- what net neutrality really does, okay? Now, to do that, I got to start by dealing with three foundational myths behind net neutrality. Myth number one is it's necessary to solve problems that would otherwise be there. Now, Nick's already taken care of that one, so how about I deal with the other two? Okay, the second myth is that net neutrality is neutral, okay? One reason it's a myth is because different applications have different needs from the Internet. Video conferencing needs much higher speed signal and more reliable signal than something like email.

00:27:07

So, to say we're going to treat them equally, it's not to treat them equally. It's a much bigger problem for video conferencing. Now, one thing you'll notice, because I sort of go a little bit in back, we were all told to stand on some Xs here. And I have tremendous respect for Tom, and I've worked with him over the years, but when he'd sit out in the middle, and he told you that the Internet in the good old days was neutral, he was both literally and figuratively off the mark, okay?

[laughter]

Oh, and by the way, for those of you who are younger, literally means literally. Think about the logic.

[laughter]

Okay, because the fact is the NSF net, the precursor to the commercial internet prioritized interactive traffic, as it should. Now, there's a second reason that net neutrality is not neutral. We always hear this thing, "Oh, we need net neutrality because, otherwise, big powerful companies will have fast lanes." Well, you know what? They do and it has nothing -- it's nothing net neutrality's going to stop.
Google, Facebook, Amazon, they spend literally billions of dollars because they have built private fast lanes. Google has -- or not Google, apologies. Facebook has proprietary specifications for fiber. They build their own integrated circuits because the servers other people would have to use aren’t good enough. So, what does net neutrality have to do with this? Well, it ensures that ISPs can’t help small firms have higher speed access. So, if you have billions to spend on an Internet of your own, net neutrality’s a great thing, but if you need help, it’s a problem.

Now, the third myth is that all data are created equal. Now, I want to contrast two situations. In one, you've got a bunch of kids sitting around and they're playing Wolfenstein. Now, for those of you who are not up on your classic games, Wolfenstein is a multiplayer game that involves trying to kill Nazis with supernatural powers. The Nazis have the supernatural powers, not you, okay? So fine, you're using the Internet to do that.

Over here, we've got a surgeon who's trying to do remote tele-surgery to save somebody's life who lives in a remote area. The surgeon can't get there. According to net neutrality, those two are equally deserving, okay? I don't subscribe to that view, okay? All right. So, now, those are the myths it's built on. So, let's talk about some of the things it does. Well, you know, we've heard a lot concerns about censorship. Well, frankly, net neutrality is the threat to free speech. Just ask yourself this: who do you think is a bigger threat to access to CNN.com and WashingtonPost.com? Is it an ISP that makes money because you pay it because you want to get access to this site, or is it the Trump administration? Because what net neutrality is about is giving the Trump administration more power over the Internet that those websites depend on. Okay, let's talk about some other things it does. Competition.

What you'll hear from net neutrality supporters is you've got to block competition to protect it. Yes. That is an oxymoron. Now, what do I mean by that? Because they said, "Well, we can't have firms pay more money in order to bring better services to their customers. That would be terrible." Well, let's think about what net neutrality would mean in other circles. Let's think about, say, Amazon, or online providers. It would mean they can't provide free overnight shipping. Why? That's not fair. That's a fast lane. Or just think about any firm that wanted to do advertising, say, on Google or Facebook. Well, you can't allow that. That's paying for superior access to customers. We can't have people paying for superior access to customers. So, what net neutrality is really about when it comes to competition is blocking it. Okay? Not promoting it. Similarly, let's talk about low income consumers. People have said, "Oh, we need to have net neutrality to protect people with low incomes." Well, it has the opposite effect. Net neutrality -- right, well, if it's enforced, and sometimes it is and sometimes it isn't -- when it's enforced, what does it do?
It says, if a content provider, an app provider wants to help subsidize the Internet for low-income people, [negative]. Violation of net neutrality. And what about rural consumers? The way rural areas are going to get coverage is only if ISPs invest in the facilities. Well, what makes them invest in the facilities? Possibility of making money. If you impose open-ended and vague regulations that constrain these firms in known and unknown ways, you are reducing their incentive to invest in those rural areas. So, when you think about it -- well, beyond what net neutrality is intended to do, and you look at what it does do, you'll see that it harms competition. It harms consumers. It limits choice. Thank you.

[applause]

John Donvan:
Thank you, Michael Katz. And that concludes Round 1 of this Intelligence Squared U.S. debate, where our motion is, "Preserve Net Neutrality: All Data is Created Equal."

00:32:00

Now we move on to Round 2, and Round 2 is where the debaters address one another directly by taking questions from me and from you, our live audience here in Chicago. Our motion is Preserve Net Neutrality: All Data is Created Equal. We have two teams debating this motion. The team representing the for side, Mitchell Baker and Tom Wheeler. We have heard them argue that the Internet represents a pervasive and powerful force in life, but that it's almost always functioning as a local monopoly. They're arguing that the bad old days of discrimination are what our opponent -- their opponents want to go back to. They are arguing, also, that the situation is not competitive -- that three quarters of U.S. households have, at most, one choice for speed. They talk about the potential for ISPs in a world without net neutrality -- to block and discriminate. They call an absence of net neutrality actually an innovation killer because it gives ISPs the power to hold app developers hostage and customers hostage to their content.

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So, that's the team arguing for the motion -- some of their arguments. Now, their opponents -- Nick Gillespie and Michael Katz -- describe net neutrality as a concept for -- rather than a problem, and it's a problem that does not actually exist. They're suggesting that the record shows that over the course of the history of the Internet, during periods when there was not net neutrality, these companies did not do the bad things that their opponents are saying that they would do. They're also arguing that, in fact, data is not created equal -- that the needs of video and email are quite different from one another. And they're -- they make an example, for example, of the anti -- what they say is the anti-competitive nature of the net neutrality rules, pointing out, for example, that an ISP, if it wanted to, could not subsidize low-income users to get greater speed, because that would be breaking the rules. So, there's a lot here, and many,
many themes developing. There's the question of whether these ISPs should be seen as a utility or not.

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There's the question of consumer choice. There's the question of fairness. And a little bit came up about free speech, and we'd like to get to all of those. But I want to first get a little bit into and then quickly out of the way something of a technical question. And there was a real stark disagreement on this question of whether there actually is -- this actually is a competitive landscape or whether these ISPs are functionally monopolies. And you -- the two sides had very, very different numbers. And it may just emerge that you're going to have different numbers, and we can't resolve that, but I would like to just take 30 seconds from each of you to tell us where your numbers came from and restate, Tom, what you say is the degree to of choice that internet users have.

Tom Wheeler:
So, one of the things you want to make sure you don't do, John, is you don't want to fudge the count to get to the right answer. When I said three quarters of American homes had at most one choice for highspeed -- that's 25 megabits per second and above -- what Nick did was first of all lower the speed, which to his credit he said, "This is only 10, and that's really [unintelligible]" --

John Donvan:
He did say that.

00:35:09

Tom Wheeler:
Okay, to his credit. Okay? But then he went the next step and talked about “But at 25 megahertz, there's a different number.”

John Donvan:
Fifty-six percent.

Tom Wheeler:
That number is calculated this way. You know, if you and I were to sit down, and we say, “How many people in the audience” -- we go one, two, three, four, five, six -- the way that number was calculated is the FCC came up with this concept that -- “Let's look at a census block,” that part of the audience right over there, and if these two people in the front row have highspeed connectivity, then everybody in that entire census block has highspeed connectivity. And that is an assumption that is fallacious.
John Donvan:
Okay. Nick?

Nick Gillespie:
So, the -- Tom, when you were head of the FCC, you changed the definition of what counted as highspeed broadband.

00:36:02

He changed from 10 megabytes downstream to 25 megabytes downstream. You would -- and I don't think I'm putting words --

Tom Wheeler:
Actually, I changed it from four to 25 --

Nick Gillespie:
Right. Okay.

Tom Wheeler:
-- because that’s what you need in order to have highspeed service [unintelligible].

Nick Gillespie:
No, no, no --

John Donvan:
[unintelligible] Tom [unintelligible] --

Nick Gillespie:
This is -- what I’m saying is what Tom thinks highspeed internet is, is 25 megabytes per second. The average number that normally gets kicked around is 18, about 18 megabytes downstream. How many of you are gamers or pretty heavy gamers? God, this is the deadest audience.

[laughter]

Nick Gillespie:
I mean, like, you’re still talking -- playing [unintelligible].

John Donvan:
It’s about 3 percent --

Nick Gillespie:
Yes.
John Donvan:
-- just for people who are not watching.

Nick Gillespie:
But 10 megabytes is actually a pretty fast -- it’s a pretty fast connection. You can game on 10 megabytes. And what I was saying was 98 percent -- everybody in America has a choice of at least two fixed ISPs for that amount, and that is going up.

00:37:01

When you go to 25 megabytes, the number goes down, but there is still competition, and it is growing.

John Donvan:
Okay --

Nick Gillespie:
I have to defend myself.

John Donvan:
I want to move off this, but, Michael, I’ll give you 10 seconds on this.

Michael Katz:
I’ll defend myself. It was Wolfenstein Classic. But this is the thing. I will say, because -- I’ll dump on everybody, because that's what economists do. You're both stuck in the past, and this thing about the speeds -- 5G is coming. When 5G comes, we're talking about having hundreds of megabits per second, and we're talking about having multiple providers if that investment occurs and net neutrality doesn't stop it.

John Donvan:
Okay.

Michael Katz:
There’s no point in looking back.

John Donvan:
Okay, but the resolution is that -- you’re both talking about variable speeds, and so that tells us to some degree why you’re coming up with different numbers, and I just want to get clarity for myself on that.

Tom Wheeler:
But it is very important -- to say that ISPs have a monopoly is -- I think is absolutely wrong, and I think we all know that.
John Donvan:
Let me ask Mitchell Baker --

Tom Wheeler:
But there's also mobile carriers that come into play as well.

John Donvan:
Let me ask Mitchell Baker. Do you see ISPs as having a monopoly?

Mitchell Baker:
Yes, because the question of a monopoly is not whether there's two or three networks.

00:38:03
It's what's actually available to you in your region at the time. So --

Nick Gillespie:
Yeah, and if there's two or three --

John Donvan:
Wait, Nick. Let her finish, please

Mitchell Baker:
Yeah.

John Donvan:
Are you done?

Mitchell Baker:
Yes.

John Donvan:
So, he jumped in just when you were interrupting, and I protected you, and you --

Mitchell Baker:
That's okay.

John Donvan:
[unintelligible]

Male Speaker:
[unintelligible] the embodiment of net neutrality!
Tom Wheeler:
Can I tag on to my partner?

John Donvan:
I am the embodiment of net neutrality?

Male Speaker:
Yes.

Mitchell Baker:
Actually, I want to take my --

Male Speaker:
You’re a useless regulation.

John Donvan:
All right, Tom.

Tom Wheeler:
Can I tag onto my partner?

John Donvan:
Yeah.

Tom Wheeler:
You know, it’s fascinating that the ISPs are out running commercials saying, “Because you have so many different devices in your home, you need to buy from us faster service.” And that disagrees with Nick’s concept that “Oh, you only need this low level of activity.” Because as we all have more devices in the home, the demand for throughput out of that home increases; the companies are selling that; and I think, by the way, that you ought to pay more for that. I’ve always felt that, you know, 12 pounds of tomatoes ought to cost more than 10 pounds.

00:39:06

Nick Gillespie:
So, Tom, do you agree, though, that -- I mean, is the figure that, essentially 100 percent of Americans have two or more ISPS to get 10 megabytes from, that there is a thriving market, and by the way, that a monopoly, you can’t have two firms and call it a monopoly?

John Donvan:
Duopoly.

Nick Gillespie:
Okay, no, but they -- you know, they are -- you know, Coke and Pepsi. Coke and Pepsi, you know, Republicans and Democrats.

Tom Wheeler:
So, the reality --

Nick Gillespie:
And if you --

Tom Wheeler:
-- and the reality is how --

Nick Gillespie:
They will increase their speed.

Tom Wheeler:
But they aren't. So, here's the point, Nick, that --

Nick Gillespie:
Why would they?

Tom Wheeler:
-- for three years, for three years, we have had an open Internet rule in place. Consumers have been protected. The networks have expanded their investment. The networks have had record profits and record stock prices. And if all those can happen together, whether the networks succeed and consumers are protected, that's a win-win kind of a situation.

00:40:01

John Donvan:
Okay, one second. I'm going to let Nick respond, but the two people whose names begin with M, we're not hearing very much from them. So please respond, Nick

Nick Gillespie:
Here, I -- this --

John Donvan:
-- and then I want to bring in Michael and Mitchell.

Nick Gillespie:
You know, the open Internet era lasted for a couple years. If you look at -- mostly if you look at the increase in the number of connections, if you look at the prices --

John Donvan:
But take a second to remind people of what you mean by that era, 2015 to 2018.

Nick Gillespie:
Yeah, I -- yeah.

John Donvan:
Okay, just for those who don't know.

Nick Gillespie:
This year, you know, what -- you look, if you go back, if you take a trend line and you run it 10 years, 20 years, however, the increase in speed, the increase in availability keeps going up. The one thing that does change -- and these are numbers, and I know Tom and I disagree about this, according to the U.S. telecom association, the actual investment flat lined in -- during the open Internet era because the regulations were not clear. It wasn't exactly what's going on, and this is what economic theory predicts. When you have vague regulations, and you're not sure if they're going to stick around or if they're a good idea, you don't put in a --

Tom Wheeler:
So, John, this is --

00:41:00

John Donvan:
No, let me -- I want to bring Mitchell into the conversation. Do you want to respond to that point, because I do have another thing I want to move on to.

Mitchell Baker:
Let's move on.

John Donvan:
Okay, I want to take your point about the potential bad behavior of companies when they're not, to some degree, limited by net neutrality. The things that you talked about, the discrimination, the blocking, the -- and the detrimental impact that you said that would have on innovation. To Michael Katz; so you heard a sort of very negative potential scenario and, I think, in fact, some examples that support Mitchell's case would be, you know, the time AT&T decided to block Facetime because they didn't like people getting around their bills by using Facetime, and they had to stop doing -- they did stop doing that. But that's an example of the kind of thing she's talking about with the ISPs in a post-net-neutrality world would be off to the races. I want to have you respond to that and then have Mitchell respond to what you say.

Michael Katz:
Well, first off, I don't want to comment on a specific case because one of the things I've always said about antitrust cases and others is the people who know enough to talk about it know they
have to keep quiet because they have confidential information, and the people who do talk about it are the people who know so little that they're free to do it.

00:42:08

And that's not a slight on Mitchell, but I just don't want to get into the specifics of it. I don't -- you're not the one who brought it up. He did --

Mitchell Baker:
Did you say [inaudible]?

Michael Katz:
No, no, I just want to be clear. But, I'm not going to --

John Donvan:
But to the degree she's talking about the future --

Michael Katz:
No, okay, no, but I want -- let's talk about this thing about innovation, though, and the broader argument about permission-less innovation, but also this thing about specific -- because there, the allegation, in that case, that was that it was to block competition.

John Donvan:
Okay, but we don't have to talk --

Michael Katz:
That's with the antitrust laws.

John Donvan:
-- we don't have to talk about that case.

Michael Katz:
Okay, that's with the antitrust laws.

John Donvan:
She's talking about a sense of motives --

Michael Katz:
Yeah, no, she -- I heard her.

John Donvan:
-- affecting behavior.

Michael Katz:
Yeah, so -- but talking about -- you know, this whole thing that's talking about, often saying, "Well, permission-less innovation, and this is really bad to innovate, you know, you'll have to get the emersion of the ISP." Well, you know what? You also have to get the permission of the electricity company.

Tom Wheeler:
But that's not true.

Mitchell Baker:
Not even true, yeah.

Tom Wheeler:
That's not even close --

Michael Katz:
It's exactly the same. Wait, let's talk about we're talking about, Tom.

Tom Wheeler:
There is no connection.

John Donvan:
Wait, hang on a second. I want to let --

Michael Katz:
You have to be there to --

John Donvan:
-- I want to let -- I want to let Michael, like, get through a point--

Michael Katz:
Okay, you have to pay your electricity bill.

John Donvan:
-- and then I would like to have you respond.

00:43:01

Michael Katz:
Now, one thing, let -- here's the problem. With net neutrality, people just throw everything into it. I agree -- okay, the discrimination is that you say, "This particular company, all right, just because of who you are, we're going to go after you." But the problem with net neutrality is it's supposed to have something completely neutral that says, "If you want to buy faster speed, you pay more." It doesn't matter who you are, net neutrality makes that kind of tiered pricing, or what I'll call variety, it makes that illegal. I agree with you. If you're --
Tom Wheeler:
No, it doesn't. No, it doesn't. Like I said before --

Michael Katz:
The ISPs --

John Donvan:
Let's let --

Tom Wheeler:
-- 12 pounds ought to cost more than 10 pounds.

John Donvan:
Tom, Tom, let your partner have a --

Michael Katz:
But net neutrality says that you cannot buy faster access if you're a content provider.

John Donvan:
Mitchell, Mitchell.

Mitchell Baker:
All right, I want to come back to a couple conversations. One, none of us goes to the power company to ask if we can build something that plugs into a socket, right? You build something that's safe and is according to the safety specs. So, the idea that we ask --

Tom Wheeler:
Agreed.

Mitchell Baker:
-- for permission --

Tom Wheeler:
Agreed.

[MW]
-- with electricity --

Michael Katz:
Okay, where's the permission with Internet?

Mitchell Baker:
So -- let me finish. Second, to your point, which is about trust or what do we think the companies are going to do?

00:44:03

And that -- I think we should trust, expect the great businesses of America to pursue their business, and that we should trust companies to try and maximize their business, be successful, and maximize their profits. That's why they're businesses. That's what they are supposed to do. And so, if we are going to trust them, that's what we should trust. And without net neutrality, we are being explicit -- that one way to maximize your business is these innovative business models that charge products, or applications, or new applications based on how profitable they are.

John Donvan: [affirmative]

Michael Katz: So, the fact they haven't done it yet -- well, the last few years have been under the open Internet order. And in the earlier days, like, it wasn't as easy. The technology didn't inspect applications and understand it. It wasn't as well deployed.

John Donvan: So, do you consider it kind of a foregone conclusion that, given the chance to play these games, the ISPs are going to play these games?

Michael Katz: Well, without net neutrality, it is not a game. It is the law.

John Donvan: All right.

00:45:00

[speaking simultaneously]

Michael Katz: Even [unintelligible] to maximize business --

Male Speaker: But you are saying --

John Donvan: Nick Gillespie --
Nick Gillespie:  
This would parade --

Mitchell Baker:  
-- you would do so.

John Donvan:  
Let's bring in Nick Gillespie.

Nick Gillespie:  
This parade of horribles is, at this point, hypothetical, because you're saying it's going to be down the road. You even said in your opening statement, it might be 10 years down the road; we'll see this. This --

Mitchell Baker:  
Ten years down the road, it becomes clear what has happened --

Nick Gillespie:  
Ah --

Mitchell Baker:  
Just as issues with data are --

Nick Gillespie:  
No, but it is not happening --

Mitchell Baker:  
-- created.

Nick Gillespie:  
It did not happen before the net neutrality rules were in place. And it has not started happening just yet. And think -- you know --

Mitchell Baker:  
[inaudible] --

Tom Wheeler:  
Not true.

Nick Gillespie:  
Think about --

Mitchell Baker:  
Not true.
Nick Gillespie:
-- we all know whenever a new media -- a new medium comes out, people think, "Oh, it's all totally different." And so, do you remember, like, the Craigslist killings, which, you know, were somehow, when old people would get together in personal ads, and somebody would commit a crime. And that -- it was, like -- okay. That was one thing. But when it happened on Craigslist, because that was an online service, people were like, "Oh, my God. The Internet is evil. Blah blah blah." There's this whole kind of Internet exceptionalism, which I think is at work in kind of your formulation --

00:46:01

Mitchell Baker:
Oh, see, I think it's --

Nick Gillespie:
-- of -- wait, wait, wait.

Mitchell Baker:
-- the opposite.

Nick Gillespie:
-- but of things. Because what you're saying is that, say, Comcast -- that's an ISP -- or a particular ISP; they are going to screw over anybody who competes with their own products. That would be like saying you go to Kroger to a grocery store -- and why would Kroger ever sell anybody else's product? Why wouldn't they just sell house brand stuff? Because that way, they would keep all the money for themselves. This isn't how businesses work --

Tom Wheeler:
So, Nick, under that theory --

Nick Gillespie:
-- and wait -- I'm just saying. And --

Tom Wheeler:
No. It's --

Nick Gillespie:
-- customers have an ability to go elsewhere --

Tom Wheeler:
When you're talking about --
Nick Gillespie:
-- [inaudible] --

Tom Wheeler:
-- imagination -- imagine, that -- under that theory, Verizon and AT&T would not have blocked Google Wallet, which they did, because they had their own competitive service.

[applause]

Male Speaker:
Yeah.

Tom Wheeler:
Under that assumption, Verizon wouldn't have blocked a tethering app, which they did --

00:47:05

[applause]

-- because --

Male Speaker:
That's right. And these --

Tom Wheeler:
-- they wanted to charge you an extra 20 bucks --

Nick Gillespie:
How are these --

Tom Wheeler:
-- a month --

Nick Gillespie:
-- remedied?

Tom Wheeler:
-- to tether.

Nick Gillespie:
How are these remedied? Because this happened before --

Tom Wheeler:
And -- but wait. Whoa --
Nick Gillespie:
-- the Open Internet order. So --

Tom Wheeler:
Wait a minute. Wait a minute. Wait a minute.

Nick Gillespie:
-- when problems arise, there are ways to --

Tom Wheeler:
Hey, Nick, I let you finish. Can I finish?

John Donvan:
Yeah.

Tom Wheeler:
Okay?

John Donvan:
Actually, I'm going to start moderating now.

Tom Wheeler:
And --

[laughter]

Male Speaker:
Well, that will be --

John Donvan:
So, I thought I was a few minutes ago, and then certainly wasn't. So, let's have a little less interruption. Your -- the floor is yours.

Tom Wheeler:
And --

John Donvan:
But you've done a fair amount of interrupting, so I'm going to call you on that. So, go --

Tom Wheeler:
And --

John Donvan:
Tom Wheeler:
And Verizon -- let's go to what Verizon said before the court, when they said, "We are here, appealing this FCC decision because we intend to discriminate."

John Donvan:
Michael Katz.

Michael Katz:
But -- okay, but Tom, you know full well that first off, even under common carrier regulation, discrimination is allowed.

00:48:02

So, this whole thing -- like, that any discrimination is bad -- right, you know isn't true. Even under common carrier. I want to make a couple other points. We have anti-trust laws. If you're using monopoly power to destroy competition, there's a venue to do it. Our anti-trust enforcement in the United States is the envy of the world. The other thing I want to do is bring a little commercial reality into this. This whole notion that "Oh, we're doing to discriminate against this poor start-up that's trying to complete with Google or Netflix" -- well, look at a couple of things. Who are the biggest proponents -- literally and figuratively, again -- of net neutrality? Well, it's Google, and Facebook, and Netflix, and Amazon. Now, are we supposed to believe that they're only in this because they want to help somebody else become the next big firm and put them out of business? No.

[applause]

Okay. Let's also look at this. Think about this. Make yourself -- you're the greediest ISP ever. All you want is money, money, money, money. Now you're thinking, "I'm going to discriminate." Now, whom -- against whom are you going to discriminate? You're going to go after a little start-up, or you're going to try to figure out if you can charge Google, Facebook, and Amazon more money, right?

00:49:02

It's like the old Willie Sutton thing.

John Donvan:
Okay.

Michael Katz:
You go -- you know, if you're going to rob a bank --
John Donvan:
Let's --

Michael Katz:
-- [inaudible] where the money is.

John Donvan:
But this is Mitchell's --

Mitchell Baker:
Right. Right. Like, this is a classic --

John Donvan:

Mitchell Baker:
This is a classic piece of what happens in the net neutrality debate, is the question of transmitting information to consumers gets all mixed up with the platforms that sit on top. And so, Google or Amazon or Facebook -- whatever it is they do, we ought to look at it, but it is not the same question as “How does data get from your ISP to you?” And we have to [unintelligible] --

Nick Gillespie:
[unintelligible] --

John Donvan:
But for listeners and viewers who may at the moment be mixed up by that point --

Mitchell Baker:
Yes.

John Donvan:
-- just lay it out.

Mitchell Baker:
Sure. So, when we talk about net neutrality, we’re actually talking about the network itself, like, the -- you might -- the physical part of how data moves, or maybe the airwaves, you know, for part of it. But it’s the physical network. Technically, the internet sits on top of that. Right? Because the internet and the way that we access data, it has to travel. Like, the bits, the electrons, have to move. And so, it’s that bit of transport of the -- the last bit of transport that goes to you, the consumer, that we’re actually talking about.

00:50:05
The internet sits on top of that, and then what we call the platforms -- Facebook, Google -- they all sit on top of that on higher layers up. All the internet, you know, exists in layers. And so, net neutrality is the argument that the fundamental layer, the most physical layer, the way the bits actually move, should be neutral, and that if it’s not neutral, anytime we try to address the layers above it, we’re dealing with a crooked foundation, and it can change at any time.

Michael Katz:
Okay, that’s completely not the point I was just making. I agree with what you said, but my point is, look at Google, Facebook, and Amazon, just the self-interest companies. Forget this thing about platforms. They are saying they’re big fans of net neutrality, and I’m saying we need to ask ourselves why.

John Donvan:
Let me ask a different question. I want to move on to just -- the question of free speech came up, and differing views on whether net neutrality is good or bad for free speech. You know, people have written about social movements being able to get started. Under the era of net neutrality, they did get started -- things like Black Lives Matter, et cetera.

00:51:01

And the question comes up, would those social movements or any social movement from the left or from the right, both of which would face opposition -- would they be less liable to be able to use that platform that we all now take for granted? And I'll take it either to Tom or Mitchell first, and to the other side.

Mitchell Baker:
I’ll say there's two things. There's one, free speech for the ISPs, you know, or free speech for the movements, and, two, I think you can only answer that because each ISP has to make a decision of what is the best way to run its business, what is the most profitable way to run its business. In some cases, shutting out all competition isn't the most profitable, because people get upset. In other cases, you can shut out a lot of competition. So, the answer is, who knows? Like, that's the problem with it.

John Donvan:
Michael?

Michael Katz:
So, I think this is again where there's just too much getting wrapped up all under the name of net neutrality. I'm willing to bet that if you asked ISPs, “Would you like to accept a rule that says you have to accept all legal content; you can't start engaging in censorship; and in return for that” -- and this is part of what common carrier regulation does -- “you're not responsible for what happens to it”.

00:52:07
And I think, actually -- and I know it's another layer; we may see this with Facebook -- I think these companies would be happy to say, “We can't start judging what goes based purely on the content as opposed to the nature of the bitstream -- just technically, you know, is it video or something.” Because, look, it's a big pain. This country has a serious problem with speech. Part of it is we've got to make sure there's not limits on free speech, but part of it is we've got to figure out how to have limits on hate speech and misinformation, and we just have not come to grips with that. And so, I agree that it's a really serious problem, and I think we've got to deal with it at the ISP level, we've got to deal with it at the platform level, but that's not what most of net neutrality is about. But I do agree on that one. We don't want private censorship.

John Donvan:
I want to go to audience questions now. And right in the center there

Female Speaker:
My name is Frances. Thank you. And I have a question for the for sides. So, a typical grocery store discriminates across different cereal brands, for example.

So, some cereal is put in the better shelf spots than others. So, my question is, is that a justification for government to have a, say, serial neutrality policy?

John Donvan:
Can I say one thing? That was a perfectly constructed question, so --

[applause]

[laughter]

John Donvan:
I -- that that's the model. Thank you so much.

Tom Wheeler:
So, it's an excellent question. Unfortunately, if I don't like the cereal policy at Safeway, you know, I can go to another grocery store, but if I don't like the decisions that are being made by my internet service provider, I have no place to go. That's the difference.

Mitchell Baker:
And I would add to that that you can go to many supermarkets. You can go to -- you know, you can go to many different supermarkets at the same day.
Like, a lot of us will go to the fruit store or the farmer's market and get fresh fruit, and then you can go someplace else and get cereal, but your ISP doesn't work that way. You don't have three connections so that you can get to everything that you want to. And so, the nature of the network, and the complexity of getting something out to you, and you as a consumer, don't have that kind of variety and can't really build it into your lives in the same way. So that's why the telecommunications is not the same.

John Donvan:
Nick Gillespie.

Nick Gillespie:
Yeah, if I can just debate that a bit, first off, again, most people have at least two choices for a quality connection. Or, you know what, use your phone then because your mobile carrier is separate, and mobile carriers are growing bigger. When Michael was talking about 5G, there is more competition. And, by the way, net neutrality doesn't do anything to increase competition among ISPs. This is where it's a major problem to me. You know, we're acting as if the Internet, as it exists now, or actually 10 years ago, is the way it will always exist.

00:55:05

If we want more competition, and if we want more ISPs, we should be pursuing policies that allow it -- allow that to happen. And that is never a conversation about net neutrality. In fact, in an interview I read in preparing for this, Tom said, "You know, because, you know, there's limits on what we can do with ISPs, you know, we have to regulate them as common carriers." That's backwards to me.

John Donvan:
But they're not -- they are not arguing that net neutrality would create more competition. They're saying that in a world --

Nick Gillespie:
I know, I mean, [inaudible].

John Donvan:
-- where this is lack of competition [inaudible].

Nick Gillespie:
Right, but my point is that we have competition and we should be -- instead of worrying about hypotheticals that might happen, you know, 10 years down the road, we should be blowing up - -

John Donvan:
But you're counting slower speeds, which would mean going to a super market and moving very slowly.
Nick Gillespie:
Yes, it would be --

Michael Katz:
No, but -- all right, it --

Nick Gillespie:
-- it would be where there's no -- there's no, you know, quick checkout line.

Michael Katz:
Wait, this -- let me take this.

John Donvan:
Please Michael, yeah. Go ahead.

Michael Katz:
Let's not -- let's not forget antitrust laws. This is not just a hypothetical. There in fact have been antitrust cases about slotting allowances and allegations that firms have, you know, paid supermarkets money to push their competitors' products out of there.

00:56:08

And we have a mechanism for looking at that, if it's actually a legitimate competitive problem.

John Donvan:
Okay, let's go to another question, right down in front there.

Michael Katz:
And the same thing implies the Internet.

John Donvan:
Right -- very front row.

Male Speaker:
Hello, my name is Martin O'Shield. I'm with an entity called Windy City SDR. I'm a member of Facebook's telecom infrastructure project. I report to Menlo Park. And what you had stated earlier with regard to Facebook having proprietary hardware is a complete lie. There's the open compute project. Everybody can Google search that right now. They open source all their hardware --

John Donvan:
Okay, okay.
Male Speaker:
-- as well as --

John Donvan:
Okay, it's -- you made your point, and it's got a little bit more negative tone than we want. I just to have -- if you want --

Michael Katz:
No, let me actually make a -- no, let me make a correction.

John Donvan:
Okay.

Michael Katz:
Okay, but the point is I -- you're right --

John Donvan:
And I just want to say, in the --

Michael Katz:
-- Facebook has tried to make it open sourced.

John Donvan:
In the spirit of things, you can say, "I don't think your facts are correct" --

Michael Katz:
No, I am going to say --

John Donvan:
-- as opposed to, "It's a complete lie."

Michael Katz:
Okay, it's not a complete -- all right, it's not a complete lie.

John Donvan:
Is it a partial lie?

00:57:00

Michael Katz:
I will -- I actually misspoke. It is true that Facebook -- I did say I misspoke --

John Donvan:
Okay, thank you.
Michael Katz:
-- as Facebook has made a lot of the technology open -- has made it open sourced, but the fact of the matter is Facebook, right, does spend a lot of money so that it can have faster connections between its data centers than the rest of this country.

John Donvan:
Okay, another question.

Male Speaker:
My name is Matthew. I have a question for the against side. The -- you mentioned 5G rollout. Would net neutrality rules actually reduce the speed of rollout of 5G? And if so, you know, well, if not, is -- why is that relevant?

John Donvan:
Okay. Great. Because that's -- that goes to the question of whether net neutrality is good or bad for innovation. Who would like to take that?

Michael Katz:
So --

John Donvan:
Michael Katz.

Michael Katz:
So, I'd say a couple things. First off -- and the reason I brought up 5G, though, is just this point. It's once we're going to have multiple, very high-speed providers, I think this whole debate about, well, what happened, you know, five years ago, four years ago, whatever is -- really becomes irrelevant. We need to be looking forward. Now, as to this question of how big the incentive effects are is -- look, we're going to get 5G in urban areas, whether we have net neutrality or not.

And also, I've got to say -- disagree with everybody, even on the history of, "What have we learned from what we've seen so far?" We don't know what we've seen so far. And some years we have net neutrality, it's a muddle. We know it's going to get challenged in court and probably overturned. Some years we don't have it; we know next time there's a change of administration, it's coming back. So, we really haven't had a certain environment. But I do think we know enough to know that at the margins, it is going to make a difference. So -- all right, if you live in Chicago, it's probably not going to make any difference, whether we have it or not, whether you get 5G. But you start living in rural areas -- it could matter.

Female Speaker:
Hi. My name is Nell Minnow [spelled phonetically]. And my question is that it seems to me a crucial difference of opinion about the facts is really the big dividing line between the two [unintelligible] about how many ISPs are available. So, hypothetically, if only one ISP was available, would the antis change their mind?

00:59:04

And hypothetically, if there were 500 available, would the pros change their mind?

John Donvan:  
I love that question. Thank you.

[applause]  
I was going to ask this side that earlier. I hadn't thought to ask that side. So, let's take it to the side against. If, indeed, there was just one every place, would the net neutrality rules be something you would support?

Nick Gillespie:  
Yeah. I think what we would -- what I would wait to see is what is the behavior that's going on? Because there's a political scientist named John Mueller who wrote a book called "Democracy, Socialism, and Ralph's Pretty Good Grocery." One of the points that he made in that is even regulated monopolies, at times -- depending -- and there's a lot of things that go into this -- but they have to respond as if they are in a competitive marketplace, because they could either be regulated more harshly or they could be so awful that they actually generate a new way, a workaround. And you think about something like taxi commissions.

01:00:00

Uber came around and basically routed around them and destroyed the idea of a taxi. You know, a typical taxicab service, always state -- you know, state-operated or state-regulated and whatnot. So, it would depend. But if --

John Donvan:
So, maybe yes?

Nick Gillespie:
Yeah. Maybe yes. If it turned out that they were discriminating, blocking sites, and doing things like that, yeah.

John Donvan:
Let's take it to the other side. If there were 500 ISPs that we had to choose from, would you be still arguing for net neutrality?

Mitchell Baker:
Well, I have a maybe yes too.

John Donvan:
[affirmative]

Mitchell Baker:
Maybe yes. And that depends on whether or not you can switch your devices or your carriers.

John Donvan:
[affirmative]

Mitchell Baker:
So, if the architecture changes and there's 500 different carriers, and it's easy for me to move from one to another, maybe then I would be okay with no net neutrality. But let's take the closer case for now. Say there's five. You know, one's your AT&T carrier, and it's got its content band, and that's what you can get. One's your Verizon carrier, and its got its content band. One's your Comcast carrier, and its got its content. Like, you actually can't switch. You can have three phones?

01:01:01

You know, how are you actually going to do things. So, in a closer setting, when there's a few and you can't really switch, once you've bought your phone -- which are still expensive --

John Donvan:
Right.

Mitchell Baker:
-- you're stuck for a while. And if you even have a contract, you're really stuck. So, in the short-term, there are some mobile providers, I'd still say, "We need net neutrality." If you get to 500 and I can have multiples at a time, that's a case where you'd want to look up and reevaluate.

Male Speaker:
So, wait, wait, wait [inaudible] --

John Donvan:
Oh, Michael --

Michael Katz:
you and I have different views on this. I think, if you have a monopoly provider, what that means is antitrust authorities should look at it very carefully to make sure it’s harming competition. I think that a lot of the baggage in net neutrality still would be a mistake. Right? The extent that what it’s doing -- it’s limiting the ability of content providers and website to provide or purchase higher-speed access to the customers. I think that’s a bad idea, whether it’s a monopolist or whether you have a bunch of competitors. I think variety of good. But I would be worried about things that could happen in terms of anticompetitive actions, but that’s what antitrust is for.

01:02:05

John Donvan:
Okay.

Nick Gillespie:
Could I ask --

John Donvan:
Sure.

Nick Gillespie:
Just -- mobile carriers -- and this is something over the past few years for a variety of reasons -- there is massive competition against, you know, mobile carriers. Do you see -- is T-Mobile blocking certain content because it would compete with its own content against Verizon or AT&T? I mean, wouldn't be happening already?

John Donvan:
Tom, why don’t you take this?

Tom Wheeler:
So, I mean, there's two issues here, Nick. One is that there's very little traffic back and forth. There's about 1 percent a month of anybody who changes and goes over to another wireless carrier.

Nick Gillespie:
No, no, that's not my question.

Tom Wheeler:
Because -- just because of the tying arrangements that exist.

Michael Katz:
Wait, how do you know that? How do you know it's not just they're happy with their wireless?
Tom Wheeler:
It’s a-- because you and I know, Michael, because we’ve both sat with the companies as they’ve schemed and connived and said, “How do I get the other guy [unintelligible]?”

Michael Katz:
But T-Mobile will pay me to --

01:03:00

Tom Wheeler:
The issue --

Michael Katz:
-- they’ll pay off my Verizon [unintelligible] --

Tom Wheeler:
Here’s one of the problems, and we were dealing with it, you know, when we left office. So, AT&T owns DirecTV, and they also are, you know, the largest internet provider. And so, they say, “Tell you what” --

Michael Katz:
Wait, wait, largest [unintelligible] --

Tom Wheeler:
I’m sorry, I’m sorry --

Michael Katz:
But that’s false.

John Donvan:
Hold it.

Tom Wheeler:
They’re not. They’re --

John Donvan:
Let --

Tom Wheeler:
You’re right.

Michael Katz:
[unintelligible] sorry, sorry.
Tom Wheeler:  
You’re correct.

Michael Katz:  
Yeah, you just misspoke.

Tom Wheeler:  
Thank you, Michael.

Michael Katz:  
Liar! Total liar.

[laughter]

Tom Wheeler:  
No, I -- you know, I would never question the facts of Michael Katz. How he applies them is something else sometimes.

[laughter]

But the -- but AT&T has said -- AT&T Mobile has said that they will deliver DirecTV, which they own, for free to your wireless device, but if you are a Dish subscriber, no, you’ve got to pay the data rates.

01:04:02

And so, what they’re doing is they’re using their control of the network to favor a content service that they own and disfavor a competitor. And I think you have to ask the question, is that free and fair competition?

Michael Katz:  
Well, I mean, my question is, though, they're not blocking it, and it's a subscription service, so if it gets rolled into AT&T, your cost of the AT&T phone --

Tom Wheeler:  
They’re discriminating. They’re discriminating.

Michael Katz:  
No, but they’re not blocking.

Tom Wheeler:  
But -- so --
Michael Katz:
Right? No, no, because, I mean, [unintelligible] --

Tom Wheeler:
Are they discriminating, Nick?

Nick Gillespie:
Well, what I'm saying is --

Tom Wheeler:
Are they discriminating?

Nick Gillespie:
So, if you buy an --

[laughter]

Nick Gillespie:
If you buy --

Tom Wheeler:
Maybe they're discriminating a little bit?

[applause]

Nick Gillespie:
No, no, they're -- think about it this way. If you are an AT&T customer, you get DirecTV for free.

[applause]

Nick Gillespie:
I mean, that's, like, kind of a good deal. Maybe that's why I'll buy an AT&T phone rather than a T-Mobile or a Verizon.

01:05:04

But what I'm saying is that you're saying we have a robust market for mobile data, you know, among the different people. Everything is now unlimited data, but, you know, they're not going out of their way to screw over each other by saying, “You know what, if you have a Sprint phone, you're not getting all of this content. We're not going to let you have it.” [unintelligible] --
Tom Wheeler:
The interesting thing -- the interesting thing about --

John Donvan:
I want to move on. We're going a little bit down and circular in that one. And I wish you guys could be more passionate about this.

[laughter]

John Donvan:
Like, really tell us what you think.

Male Speaker:
Hi there. My name's Derek Jones [spelled phonetically]. I'm a third-year JD/MBA student here at Northwestern. I'm just wondering, could you please talk about some examples from other countries that have similar or different net neutrality laws, just to kind of give us a picture of what next week is going to look like.

John Donvan:
Mitchell, you want to take that? You're familiar with, I believe, with European laws --

Mitchell Baker:
Yeah.

John Donvan:
-- and overall scheme.

Mitchell Baker:
So, I'm not --

01:06:00

John Donvan:
Not an expert, but you have a good sense.

Mitchell Baker:
There are a couple of different kinds of examples of whether it's discrimination or blocking. I'll take, for example, in Canada, when an ISP was having labor disputes with its workers and ended up blocking the websites that the workers used to organize, for example. So, there's the kinds of examples of discrimination or blocking, and then there's the different regulatory schemes. And so, we've seen that Europe has adopted -- is further along on the net neutrality piece, so we'll see that as an example. But certainly, with the arrival of new networks and 5G rollout, that is -- that is the occasion in which the mobile network operators are using to raise net
neutrality again. And so, it's actually, you know, an example there as well. We are seeing some, from Brazil and India, you know, interest and leadership and not waiting.

**John Donvan:**
Not waiting in what sense?

**Mitchell Baker:**
Not waiting to -- not waiting to see what's happening elsewhere, and not waiting for examples, so --

**John Donvan:**
So, they're instituting net neutrality rules?

**Mitchell Baker:**
Yes, exactly.

**John Donvan:**
Let's see if the other side has any response to what's happening overseas. No?

**01:07:03**

**Nick Gillespie:**
Not particularly.

**John Donvan:**
Okay.

**Tom Wheeler:**
So, I think the reality of overseas is that in most developed countries, the cost per megabit is lower than in the United States and the throughput is higher because the government has taken a role.

**Nick Gillespie:**
I -- the only thing I'll say to that is that these are the types of things where there are many interpretations of that. The geography of the United States also plays into a factor. And if you look at places like Chicago, New York, San Francisco that are densely populated, and you compare them to relevant parts of Europe, pretty much everything is similar.

**John Donvan:**
Okay. Over on the far side?

**Male Speaker:**
My name is August Hutchinson, interloper from University of Chicago, and my question is for both sides. Since the topic of content discrimination and free speech has come up, and since
we're at a law school, I was hoping both sides could speak to the potential I Amendment and legal implications of net neutrality, either its -- either --

01:08:13

John Donvan:
Yeah, I'm interested. Are there I Amendment implications? I'll take that to you, Michael Katz.

Michael Katz:
So, I don't -- sorry, I just have to ask a lawyer because I just don't have views --

John Donvan:
Okay.

Michael Katz:
-- on the issue of commercial free speech and whether it is impinging on the ISPs.

John Donvan:
All right, I mean, if -- does -- it's perfectly respectable to say, "I actually don't know that topic, so I'm going to pass." And I respect that, rather than chewing up a lot of time blathering, so thank you. I respect that.

[applause]

Thank you. Let's take it to the other side, if you'd like to -- if there is -- if there is an answer, because Tom, you are the lawyer.

Tom Wheeler:
So -- no, I'm not.

John Donvan:
Oh, I'm sorry.

Mitchell Baker:
That's right.

John Donvan:
Your colleague is the lawyer.

Tom Wheeler:
No, I'm not, please.

John Donvan:
You know where we are, right? Yeah, okay.
Tom Wheeler: The -- you know, it's interesting. Today, I was reading, as I flew out here, a headline in Adweek that says, quote, "As TV viewing habits change, local broadcasters turn to streaming over the net -- over the Internet."

01:09:08

John Donvan: You're getting to the First Amendment question on this?

Tom Wheeler: Yeah, it's the first one.

John Donvan: Okay.

Tom Wheeler: And so, the -- and so -- and so here we have this basic voice of democracy and the question is, "Will somebody be in a position to say, 'No,' or, 'I will make choices as to this person or this party or how they -- I charge them,' or whatever." We addressed this once before in cable television, interestingly enough, the folks who have the cable side of the broadband pipe. And the government said to them, "You must carry the local TV station to make sure that there is a diversity of voices and economic underpinning so that there can be this kind of First Amendment expression. And the -- net neutrality says that you have to have the same kinds of protections for expression such as streaming a local newscast.

01:10:08

Male Speaker: All right. But wait --

Male Speaker: [inaudible] --

Male Speaker: I said I'm not a lawyer, but I do know this much about the constitution. The First Amendment is about government. It's blocking government restriction of free speech. The First Amendment says nothing -- whether an ISP, as a private entity, can do it. So, that's -- it's not a First Amendment issue. It may be a free speech --

Mitchell Baker: Well, there are --
Male Speaker:
-- issue --

Mitchell Baker:
There are real --

Male Speaker:
It may be a free speech issue but it's not a First Amendment issue.

Male Speaker:
I think -- and --

John Donvan:
Mitchell will jump in.

Mitchell Baker:
I was going to say, there are real issues of what is a public space. And are there public spaces and commercial spaces? And are --

Michael Katz:
Well, no, I agree, but [inaudible] --

Mitchell Baker:
-- so, like -- to say there's no issue is probably [inaudible] --

[speaking amendment]

Nick Gillespie:
So, to the extent --

Male Speaker:
The question was about the First Amendment.

Nick Gillespie:
-- to the extent that we're talking about that, I do think, you know, I see net neutrality as a kind of -- part of an attack on free speech, because what it is doing -- it is saying that the government will be more involved in controlling and regulating what happens. The government has a very bad record -- the FCC in particular has a very bad record of allowing free speech.

01:11:06

The government is not interested in free speech. The government is interested in controlling speech. The Communications Decency Act from the mid-90s -- one of the great things in that, which immunized --
Mitchell Baker:
No, but --

Nick Gillespie:
-- yeah, which immunized websites and publishers online from getting in trouble for things that their commenters said or things that got posted to them -- that is being weakened. That was just weakened by a law that is supposed to stop sex trafficking. We are in a low-grade war against the First Amendment. And any time the government says, "We need to step in in order to protect speech -- we have to protect you against hate speech, we have to protect you against sex trafficking, we have to prevent you against this, that, or the other thing -- obscenity" -- you should be very scared. And net neutrality plays into that by giving the government in the form of the FCC more power to say, "You can do this or this, but we get to pick."

01:12:02

John Donvan:
Tom, hang on.

Tom Wheeler:
So, Nick, my question then becomes to you -- what is a libertarian to do when --

[laughter]

-- what is a libertarian to do when the restraint on freedom comes from a non-government actor?

Nick Gillespie:
Yeah. It's an excellent question, and I would be --

[applause]

-- among the first to say, you know, that government power or state power is not the only power. Corporations have massive power. Amazon has power. Amazon and the failing Washington Post has power, et cetera.

[laughter]

What I see happening online -- and I say this as a journalist; Reason Magazine is in its 50th year. With the rise of the Internet, our reach, and our scope, and our visibility, our influence has grown massively, because we can get to more people at a lower cost. I am very invested in a free and open Internet that allows people to say whatever -- I was going to curse, but I was told not to --
[laughter]

-- because this is PBS, which goes over the air.

01:13:04

So, it's controlled by the FCC.

[laughter]

But you know, I'm very invested in all of this. And what you do is you speak out. And this is why ISPs, to date, have not been at the forefront of shutting down speech that they do not like. They don't block on a regular basis. They don't block sites.

Tom Wheeler:
So, wait a minute --

John Donvan:
Don't -- wait -- don't you feel better for not having cursed?

Male Speaker:
Yeah.

Nick Gillespie:
No.

John Donvan:
No?

Nick Gillespie:
Absolutely not.

John Donvan:
Okay.

[laughter]

Tom.

Mitchell Baker:
All right.

Tom Wheeler:
So, Comcast didn't block the speech of Bittorrent?
Nick Gillespie:
They did and they --

Tom Wheeler:
Okay.

Nick Gillespie:
-- got in -- wait, wait --

Tom Wheeler:
[unintelligible] --

Nick Gillespie:
And they didn't -- they didn't block the speech. They blocked the practice. But Tom, we also know -- and I say this as somebody who uses Bittorrent -- here is something; I'll admit to being a criminal -- I download unauthorized copies of movies using Bittorrent. The reason Comcast was doing that --

Tom Wheeler:
That was not the -- no --

Nick Gillespie:
-- is --

Tom Wheeler:
-- this was legal content.

Nick Gillespie:
But it's also 91 --

Tom Wheeler:
This was --

Nick Gillespie:
95 percent --

Tom Wheeler:
Nick --

Nick Gillespie:
-- of Bittorrent content --

Tom Wheeler:
Nick, don't --

Nick Gillespie:
Is --

Tom Wheeler:
-- don't recharacterize what happened here.

01:14:04

Legal content was slowed down by Comcast. Legal content -- because of the fact that it was competing with their legal service.

Nick Gillespie:
How was that resolved?

Tom Wheeler:
They did. And then they went --

Nick Gillespie:
How was that resolved, Tom?

Tom Wheeler:
The FCC said, "Don't do it."

Nick Gillespie:
Right. How --

Tom Wheeler:
And --

Nick Gillespie:
-- did that -- what year was that?

Tom Wheeler:
2007, decided in 2010. And then Comcast went to court and said to the court, "You cannot tell us not to discriminate." If Comcast says to the court, "You can't tell us not to discriminate" -- if Comcast, AT&T, and everybody else amends their Internet practices to say, "Well, we once said we weren't going to have paid prioritization, but now we're going to start waffling on that." What does that tell you about what the reality is?

Michael Katz:
Two quick things.
01:15:00

One is, is paid prioritization always a terrible thing? Is there no possibility that I might want to buy paid prioritization? Secondly, if Comcast is doing that, then my other ISP will likely compete for that customer by saying, “You know what? Bit-torrent away.”

John Donvan:
And that concludes round two of this Intelligence Squared U.S. debate, where our motion is Preserve Net Neutrality: All Data is Created Equal.

[applause]

And now we move on to round three. Round three is brief closing statements by each debater in turn. They will be two minutes each. This is their last chance to try to change your minds to vote for their side. Speaking in support of the motion in his closing statement, Tom Wheeler, former chairman of the FCC.

Tom Wheeler:
Thank you very much, John and our worthy opponents. This has been fun, but with all the respect, I don't think that you have made your case. We've talked a lot about economic theory, but the reality is that networks have big power, and consumers have little choice.

01:16:13

You can't get around that by defining digital down. You can't sit here and talk about the future in 5G and then talk about yesterday with 10 megabits. America demands first-rate internet service. We’ve had three years of success under the open internet rule, where the companies prospered, and consumers prospered. Res ipsa. That's it. The facts do speak for themselves. But I want to tell you, the reason we deal with policy is the policy is about people. And one of the things that I learned when I was at the Commission -- because I got to deal with a lot of people on this issue, and the innovators that would come to me and say, “We need to have open access so we can reach the market with our new ideas.”

01:17:06

The teachers who would come to me and say, “Our students need to be able to reach the world of innovation, the world of information,” the artisans, like the ladies who make handicrafts to support their family and sell them on Etsy. They all had the same message, and that is “We could be crushed by the big dogs coming in, paying cash to get preferential treatment. We need equality of opportunity.” Equality of opportunity, which is based on equality of access, and that's why we're urge you to join the 83 percent of Americans who, in a recent poll, said they support net neutrality and oppose its repeal, and support this motion tonight. Thank you.
01:18:01

[applause]

John Donvan:
Thank you, Tom Wheeler. Again, that motion is Preserve Net Neutrality: All Data is Created Equal. Here, making his closing against the motion, Nick Gillespie, editor at large of Reason.

Nick Gillespie:
You know, I have to say, Tom's heart-wrenching story really changed my mind, that, you know, women, you know -- and I'm assuming that their development may be developmentally challenged, or they have Ricketts, and they're knitting little baby booties, and the only thing keeping them alive is net neutrality, which has not existed for virtually all of the internet's life. I mean, it's a nice story, but it's ridiculous. And it's also ridiculous to say there are ISPs who are big ogres, and then there's just all of us, and we have no power; they have all the power. Because there are the people that Michael was talking about -- there's Amazon, there's Facebook, there's Twitter, there's YouTube, there's Google and Google's parent company and their parent company and their parent company.

01:19:00

We have a very good, functioning internet, and it's getting better all of the time. It got better before there was open internet or the net neutrality rules that Tom put into place; it's getting better since then. I want to remind you that, you know, what Ajit Pai said, "Net neutrality is a solution that won't work to a problem that doesn't exist." The solution that gets proffered by it is always to take free things away from people, so if you were on T-Mobile, and you had binge on, that was considered a violation of net neutrality. Why should you get -- why should you get data that is not counted against your monthly cap? Metro PCS, a weak carrier, a weak carrier -- yeah, a weak carrier that allowed you to watch YouTube, that was a problem. These are the things that -- let me put it this way. Supporters of net neutrality are constant -- I -- supporters of net neutrality constantly point to zero-rated plans as problematic.

01:20:03

So again, net neutrality, a solution that won't work to a problem that doesn't exist. If you think the government is going to guarantee better quality, better service, and free speech, I think I'm moving to Canada. Thank you very much.

John Donvan:
Thank you, Nick Gillespie. The motion again, "Preserve Net Neutrality: All Data is Created Equal." And here making her closing statement in support of the motion, Mitchell Baker, chairwoman of Mozilla.

Mitchell Baker:
I want to start by noting my partner's extreme disagreement with the statements about Ben John [spelled phonetically], to begin with. And I -- we don't have time to go into that in detail. So, you know, Mozilla and our work in Firefox would not be here without net neutrality. We first built Firefox in 2004 as a nonprofit.

01:21:00

By definition, our goal is not maximizing revenue, not for ourselves, not for the ISPs, not for anyone else. We were building a product everyone knew was irrelevant and we were challenging the tech giant of its time, Microsoft, which was essentially Google, Apple, Amazon all rolled into one. We were open source, which was very freaky at its time. We had no money for marketing. We had no money for distribution and we were building the Internet as a public asset, something that was crazy for its time. We were not anyone's model of an attractive business partner, but we had one thing going for us along with our product. We had the open Internet. We were able to offer our product and we were able to make it fast. We were able to make our download fast, which is more important than you would ever think in trying to get a product adopted, and we were able to make our download fast without worrying about what ISPs around the world would decide, and whether their delivery practices would ruin our product.

01:22:14

Without the open Internet, we wouldn't have had a chance, and the opportunity of the open Internet should be for all of us. Innovative business practices, innovated solutions, should be distrusted, and each of us should have the opportunity without going through the gatekeeper of our ISP. And so, we urge you, "Support the motion." Preserve net neutrality. Thank you.

[applause]

John Donvan:
Thank you, Mitchell Baker. And that is the motion, "Preserve Net Neutrality: All Data is Created Equal." And here to make his closing argument against this motion, Michael Katz, professor at U.C. Berkeley, and former FCC chief economist.

Michael Katz:
So first off, I want to start by thanking Tom and Mitchell. It really has been a privilege to debate with you. It's only been disagreement, but this -- it really has been an honor.

01:23:03

Now, this is my first time doing an Intelligence Squared Debate, and so the organizer told me, "Look, the way you finish, the way you win is you got to ask people -- in my case, 'You got to vote against the motion.' Ask everyone to vote against it." Well, I'm not going to ask you all to vote against it because I'm an economist and I think you should respect your preferences, okay?
[laughter]

So, look, here’s the thing. Some of you should vote for the resolution. If you believe the best way to protect freedom of speech is to give Donald Trump more power over the Internet and the media’s access, then vote for the resolution, okay?

[applause]

If you believe -- the applause doesn’t -- wait, one thing, the applause doesn't count against my time, does it?

John Donvan:
No, it does, sorry.

Michael Katz:
I'm going to have to take it down a level. Okay, if you believe the best way to protect competition is to make it illegal to compete by offering your customers a better product and a better deal, again, vote for the resolution. If you think that the way to level the playing field -- wait, somebody hold him back. The way to hold -- level the playing field is to make sure that the very largest, the richest companies the world has ever seen should be able to have preferential access because they can afford to build their own Internet, then again, vote for the resolution, okay?

01:24:09

If you believe that apps and content providers should not be allowed to try to subsidize access for low income consumers, again it's clear, vote for the resolution, okay? And if you believe that a good multiplayer shooting gaming experience is as important, maybe more important, than successful tele-surgery, then again, vote for the resolution. But here's the thing. I hope there's some others in the room still. Okay? If you believe in free speech, and you believe in competition, and you believe in consumer choice -- and if you want to bridge the digital divide by seeing lower cost Internet access out there for low-income consumers -- and in rural areas -- and most importantly, if you believe that saving a real life is more important than killing a virtual Nazi, then you should vote against the resolution.

01:25:02

[laughter]

John Donvan:
Thank you.

[applause]
Michael Katz. You all really came here to compete. And that was really obvious. And we really appreciate that, but we mostly appreciate how you did it with respect. And even you were saying, Michael, what an honor it was to debate these opponents. That's exactly the spirit we're trying to capture. So, I want to thank all of you for the spirit in which you did this.

[applause]

Intelligence Squared actually functions as a philanthropy. We would very much appreciate anybody who wants to support us. Just go to our website and you'll find a way to donate. It'll keep us going. We're intending to grow and keep going, and to get to more cities. And your support would be really critical to us. One thing that I do want to do, before we move on -- just to get a sense of how ideas -- we're going to hear how you in the audience changed their minds, but I'm just curious -- among the four of you, in the course of the evening tonight, did you hear anything from your opponents that gave you pause, and you said, "Actually, they kind of have a good point about that one and I might have to digest that and work it into my arguing about this in the future?"

01:26:12

Nick, you seemed to --

Nick Gillespie:
Yeah.

John Donvan:
-- have the biggest nod going.

Nick Gillespie:
I -- you know, one of the things that I -- was very helpful in debating tonight was the idea that there are remedies, there are legal remedies to business practices. A lot of libertarians are extremely dogmatic or doctrinaire [spelled phonetically] saying that there should be no rules whatsoever. But in fact, one of the things that's interesting -- and I think, in some of the cases you brought up, of bad behavior on ISPs, the ways in which those were handled, using sometimes anti-trust or other types of -- you know, Ajit Pai has actually talked about using the Federal Trade Commission would be a better place to adjudicate a lot of claims. I think that's worth thinking about and worth taking really seriously.

John Donvan:
Anybody else hear anything?

Tom Wheeler:
Yeah. I got to tell you that, you know, Nick is always stimulating.
01:27:01

This is the second time that he and I have had exchanges.

Nick Gillespie:
And I suspect it might the last, but --

Tom Wheeler:
And --

[laughter]

-- and Mike -- you know, I mean, I've known Michael for years and years. And sometimes we've been on the same side and sometimes we've been opposite sides. And I like being on the same side a lot more.

[laughter]

Michael Katz:
But look -- one other thing I think comes out of this, though, is -- when you try to have a serious debate -- is there are areas of agreement. And it's actually, I think, one of the things that is very frustrating about the net neutrality debate is net neutrality ends up being so many -- meaning so many different things to so many different people, and that we lump all these things together, because -- for example, you know, this -- the concerns about censorship is one I have. It's just I think there are other ways to do it. But I -- that's, again, what I meant when I said it was a privilege to have [inaudible] --

Tom Wheeler:
Yeah. Just so these people don't go away misinformed, it is legal under open Internet to prioritize a medical application, emergency applications, public health applications.

01:28:04

And because of, you know, their importance to overall society.

Michael Katz:
Okay, so, I mean, we actually bring up something else, because --

John Donvan:
You know, before you do --

Michael Katz:
No, the same -- no, it’s this point. I want to agree with him.
John Donvan:
Well, I just want to hear from Mitchell --

Michael Katz:
[unintelligible] --

John Donvan:
-- while we have time, so then I’ll come back to you.

Michael Katz:
Okay, then I want to make a point [unintelligible].

John Donvan:
And, Mitchell, the answer does not have to be yes. I’m not trying to create a kumbaya moment here. I’m just curious to know --

Mitchell Baker:
Well, you know, I have a feeling I need to confess, perhaps, to a moment of bad citizenship here, because I’m not sure -- I heard some things confused me, or connections that I didn’t understand, like how “All information just gets treated equal” ends up being the government making some information unequal. But I haven’t yet changed my mind.

[applause]

Michael Katz:
It’s called Title II.

Mitchell Baker:
[laughs] But I will say that the value of humor is really excellent. That is one thing I think we could all agree on, and I certainly learned a lot about that.

John Donvan:
Okay, one other thing --

Mitchell Baker:
Which I’m trying to learn. No, I mean, that was not [unintelligible] either.

John Donvan:
Okay, 15 seconds.

01:29:05

Michael Katz:
But, Mitchell, that’s exactly the point. The problem is there are some things in net neutrality,
but then Title II has got a lot of other stuff, and that’s where it comes. Okay, but back -- some point that Tom wanted you to make -- I’ll make it for him -- the FCC did not say that Binge On -- Tom wanted to say -- did not say it’s illegal. No, of course, I’m not bringing this up just to be nice. But I think that’s part of the problem, because net neutrality supporters, as Nick said, did say it should be illegal, and to the FCC’s credit --

John Donvan:
Okay --

Michael Katz:
-- it -- well, it’s actually not so bad [unintelligible] --

John Donvan:
Okay, we don’t need to debate anymore.

[laughter]

Michael Katz:
Yeah, we do!

John Donvan:
And now it’s time to learn which side you feel has argued the best. I have the results. Again, the way this works -- it’s the numbers -- it’s the it's the difference between the first and the second vote. The team whose numbers have gone up the most in percentage points will be declared our winner. Again, the motion is this: Preserve Net Neutrality: All Data is Created Equal. Before the motion, in polling the live audience here in Chicago, 60 percent agreed with the motion; 23 percent were against; 17 percent were undecided. Again, those were the first results.

01:30:01

What counts is the difference between the first and the second vote. In the second vote, the team arguing for the motion Preserve Net Neutrality: All Data is Created Equal -- their first vote was 60 percent; their second vote was 60 percent. They stayed the same.

[laughter]

John Donvan:
They stayed the same. Let’s see how the against side did. Their first vote was 23 percent; their second vote, 31 percent.

[applause]
John Donvan:
they went up eight percentage points. That is enough. It means the team arguing against the motion Preserve Net Neutrality is our winner. Our congratulations to them. Thank you from me, John Donvan, and Intelligence Squared U.S. We'll see you next time.

[applause]

[end of transcript]

This is a rough transcript. Please excuse any errors.