



# THE FREE STATE FOUNDATION

A Free Market Think Tank for Maryland.....Because Ideas Matter

***Perspectives from FSF Scholars***  
***September 6, 2013***  
***Vol. 8, No. 22***

**Let Them Eat Cake and Watch Netflix**

by

**Justin (Gus) Hurwitz \***

Susan Crawford is one of the most compelling advocates for government involvement in expanding access to high-speed broadband services. But I often find her work confusing. She tends to draw myriad arguments together to tell a compelling story – one consistently tied to her anti-cable narrative – but one that tends to fall apart when you look more closely at how the pieces are supposed to fit together.

That was my general take when I read her recent book, *Captive Audience*. Walking through her argument, one feels each step is forcing a square peg into a round hole, and that she is willing to gloss over this mismatch in order to argue her case. In her hands, and fueled by popular anti-corporation (and, particularly, anti-cable) sentiment, this is a very effective rhetorical approach. It is one that Crawford has masterfully used to captivate audiences.

I start here because I was reminded of this “square pegs/round holes” feeling when reading her recent [Wired column](#) on the [2013 Pew Home Broadband Survey](#). The report shows a small but significant increase in home high-speed broadband connections, but also shows the continuing persistence of a digital divide.

In her piece, after noting the persistence of the digital divide, Crawford turns to her critique of both Pew's and the FCC's definition of "high-speed internet" – 4 Mbps down/1 Mbps up – and the inclusion of mobile Internet access in these measurements. She argues that this definition, adopted by the FCC because it is sufficient for members of a household to simultaneously stream high-quality video (e.g., Netflix) while also making ordinary use of the Internet, is too slow. What if you wanted to watch two HD-quality videos at once over a single connection? Recognizing that basing government regulation on making sure people could watch multiple movies at once could be considered "frivolous," she buttresses her argument by suggesting such high-speed connections could be needed for "first-class interactive education" or "telemedicine."

We can put to the side debates over what constitutes sufficient bandwidth for current or future uses. (Oh, I can't help myself! Most of the studies used to argue that households need more than 10-20 Mbps downstream access have been shown to have basic mistakes in them. Most consumer-oriented telemedicine applications being worked on today are based on mobile platforms; those that are not generally work with expensive medical equipment that would be hosted on an institutional Internet connection, not a home one. "First-class interactive education" applications require far less bandwidth than high-quality video. But, seriously, putting these debates to the side,) Crawford is using concerns about the digital divide to promote her argument that we need more, faster broadband and that the cable companies are evil monopolies that will never build out such an infrastructure.

But the digital divide isn't about people today not being able to watch movies on Netflix. And it's definitely not about people today not being able to use future service that may or may not require the sort of infrastructure Crawford wants the government to build.

The digital divide is about people not being able, not knowing how, or not wanting to get access to basic news and information. It's about people today not being able, not knowing how, or not wanting to use e-mail to stay in touch with friends or family. It's about people today not being able, not knowing how, or not wanting to use the Internet for their jobs – or to find jobs. It's about people today not being able, not knowing how, or not wanting to use the Internet to access government services. It's about the (very real) concern that, as civic and democratic institutions increasingly migrate online, those without basic Internet access or knowledge will be locked out of a vital civic and democratic forum.

None of these applications require bandwidth sufficient to stream high-quality video. Indeed, none of them should require such capacity. Another very real concern related to the digital divide is that various groups with disabilities – the deaf and blind, for instance – are already unable to avail themselves of these online forums because they rely too much on sophisticated multimedia formats to provide basic information.

Now, I'm not a proponent of regulation. I'm not going to advocate for broad regulation of Internet content to ensure ADA compliance. But I would suggest that a better target for Crawford's efforts – if she is really concerned about lessening the digital divide (and I do

fully believe that her convictions are well meaning and sincere) – would be to advocate for government institutions and other civic and democratic forums to develop online applications that do not require high-speed broadband connections.

Contrary to Crawford's views, consumer bandwidth is exceedingly cheap. Current prices per bit are probably well below long-term equilibrium prices. This is the result of years of uncapped plans without usage or capacity caps. Independent of actual consumption, users on uncapped plans are paying for the right to saturate their Internet connection 24 hours per day; the typical user, downloading several gigabytes per month, is paying for the same amount of bandwidth as the user downloading several terabytes per month. Such pricing plans provide no incentive for users – those users on the happy side of the digital divide, that is – to care about how much bandwidth their applications consume. This, in turn reduces any incentive that application developers have to care about how much bandwidth their applications require.

In a world where consumers perceive a non-zero marginal cost for incremental bandwidth consumption – perhaps, as an example, a world with consumer bandwidth caps – there would be consumer demand for lower-bandwidth versions of websites and other Internet services. Rather than ratcheting bandwidth requirements consistently up – increasing the size of the digital divide – the self-interested decisions of consumers on the fortunate side of that divide could actually help shrink that divide.

The amazing (or, to economists, obvious) thing about such an approach is that it doesn't require government intervention. And the tragic thing (though, to economists, not surprising) about demands that the Internet economy disobey laws of supply and demand, that Internet providers offer consumers a service unconstrained by scarcity, is that such demands create the Internet-equivalent of bread lines. They are, in fact, the wedge that widens the digital divide.

\* Justin (Gus) Hurwitz, a member of the Free State Foundation's Board of Academic Advisors, is an Assistant Professor of Law at the University of Nebraska College of Law. The Free State Foundation is an independent, nonpartisan free market-oriented think tank located in Rockville, Maryland.