

**REMARKS BY ATTORNEY GENERAL ERIC T. SCHENIDERMAN
TO BE DELIVERED AT CIVIC HALL**

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AS PREPARED FOR DELIVERY AND SUBJECT TO CHANGE

Good evening, ladies and gentlemen. I appreciate you all being here tonight.

First, I want to thank Jessica Lawrence, Andrew Rasiej, Micah Sifry, and Heidi Sieck for helping to make this night happen here at Civic Hall. I've known Andrew and Micah for a long time, and they have been true visionaries for New York's tech sector.

And Civic Hall! Just look around. Civic Hall is a place designed to welcome big, wild ideas. It's a place where innovative technology meets the passion for the public good.

When they asked me to come and speak tonight, I was excited to get a chance to talk with you all. This is a significant moment for our city, our economy, and our culture.

Our city's tech community is rising fast—riding a wave of energy and ideas that no other city can touch. It is an exciting moment, but also a turbulent one.

Some of us in government, the private sector, nonprofits, and citizen activists are trying to figure out how to make this moment benefit all New Yorkers. So let me frame our conversation tonight by giving you a few thoughts on how I see this remarkable moment in American history.

First, I want to talk about two interconnected trends that lead inexorably to the conclusion that New York State government, which means me and my office, and the tech sector are going to have to work more and more closely together in the years ahead.

First trend: the gridlock and dysfunction in Washington has caused a de facto devolution of power away from the federal government and back to the states. This trend of "new federalism" is not going to end any time soon, no matter who wins the next presidential election.

State governments have to step in when federal laws and regulatory agencies are no longer able—or, in some cases, no longer willing—to handle the challenges of regulating markets, protecting public health and safety, or promoting the general welfare.

My office has already done this on a variety of issues.

When the federal government refused to investigate the banks and other financial institutions that caused the meltdown of the global economy in 2008, I put together a team of lawyers to do just that. Our work eventually led President Obama to create an unprecedented state and federal mortgage task force that I co-chair. Our task force has already collected more than \$60 billion from the banks that packaged and sold toxic mortgage-backed securities. And we are still working on more banks.

Another example: when I figured out that the Food and Drug Administration was incapable of stopping the billions of dollars of consumer fraud in the herbal supplements industry, my office filled the gap. We launched an investigation that is transforming the way this multi-billion dollar

industry does business, so that when you buy a product labeled “ginseng,” you can be sure it actually contains ginseng.

And when Washington’s efforts to close the gun show loophole collapsed in a public shouting match—and the leaders of the NRA stormed out of a meeting—I was able to bring them back and close that loophole for all gun shows in New York State. I am proud of the fact that New York gun shows now have the best procedures in America to ensure that criminals and people with mental health problems cannot buy guns.

To put it bluntly, the federal government is collapsing. We cannot look to Washington for big, unifying federal programs to solve our problems any more. It will be up to state and local governments to fill the gaps.

That’s trend one.

Trend two is the emergence of new, tech-based business models that don’t fit cleanly into our existing legal frameworks.

This explosion of new companies and ways of doing business is only going to accelerate. And in the absence of significant federal action, this will force state and local governments to re-evaluate laws and regulations—to draw distinctions between what is important in order to protect our people and our economy, and what is simply a leftover vestige of the old ways of doing business.

Taken together, these two trends mean that states are going to start to look more and more different from one another. Some states will have big, successful health care programs and expansive Medicaid coverage. Some won’t. Some states will welcome undocumented immigrants and give them state-sanctioned ID’s or drivers licenses. Some won’t. Some states will have effective labor, gun safety, and environmental laws. Some won’t.

In my view, a major factor in determining which states will succeed in this new, more competitive, federalist system is how nimble a state is in adjusting its laws and regulations to protect important public interests and values—while also adjusting those protections to embrace new technologies and new business models.

My goal is to see that New York is at the forefront of the most successful states in dealing with these challenges. And I need New York’s tech community to work with me to accomplish this goal.

Ladies and gentlemen, New York has long been a home for risk-taking entrepreneurs. We were the state that had the audacity to build the Erie Canal and change the American economy—and, really, the North American continent—forever. That public-private partnership created incredible wealth for the innovators who built it—and spread that prosperity to workers and business owners who benefited from this transformational work.

Seven or eight decades after the canal, another generation of New Yorkers had the extraordinary vision to see that a massive underground transit system, unlike anything ever built in human history, could create a metropolis unlike any that had ever existed—and could supercharge the city’s economy for many decades to come. Today, more than 8 million people a day travel on the MTA system. It is as indispensable to this city as air, water, bagels, or coffee.

Great, visionary accomplishments—and I would put the current explosion of New York’s very distinctive tech sector in the same category. In the past decade, New York’s entrepreneurial spirit has created some of the most exciting tech companies in the world—from Etsy to Kickstarter to Tumblr.

And New York’s tech sector is quite distinct. New York is the heart of media, fashion, art, finance, and music. It just makes sense that tech innovators want to be close to innovators in other sectors.

If you’re a talented tech star, where would you rather be? In Silicon Valley, surrounded only by other tech people? Or in the greatest city in the world—inspired by musicians and artists and the most culturally and ethnically diverse group of neighbors you can have anywhere? Do you think Kickstarter could have happened anywhere but New York? It brings together tech, arts, and culture in a way you could only do in this city.

That is one of the big reasons the New York tech sector is soaring. We’re now actually adding tech jobs at a faster rate than Silicon Valley.

So what does this mean for those of us who make public policy? It means that we need to embrace new business models—and new forms of civic engagement. We need to use them to build the best government, the best regulatory systems, and the strongest democracy in the country.

I saw *Hamilton* recently, which you all should see. This musical captures the passion for innovation—for reaching for something that had never existed before—that permeated the founding of our republic.

It made me think:

In the 1780s, the smartest and most successful people in America—or at least a big group of them—saw it as their duty to work on the most important problems in America. Over the last few decades, I don’t think that most of the smartest, most successful people in America have been working on the most important problems in America. They seem to have been working on increasingly complicated ways to squeeze more money out of financial transactions.

Well, in my view, what we are discussing here tonight reflects a return to the traditions of the founders. You represent the next wave.

New York’s tech community has a renewed focus on getting smart, visionary people engaged in solving real problems for real people. Some of the civic innovation apps you’ve built have astonishing potential to bring power back to workers and voters.

I was proud to join in the fight for net neutrality, and it was New York’s tech leaders who really helped win that fight. The civic spirit of New York’s tech community is strong. So it’s up to those of us in state government to nurture that spirit and help make sure this community can expand in a responsible way.

My goal is an evolving state framework for ensuring what I call “**responsible disruption.**”

In the tech sector, the word “disruption” is often seen as an unalloyed good. But we have to admit that disruption can often have unintended and negative side effects.

For New York to create the best framework in America for responsible disruption, we have to dig down and see which public interests really need protecting. And we need to examine our rules and laws to make sure we are nimble enough to protect those interests, while supporting business and civic innovation at the same time.

Let me break this down.

For me, “responsible disruption” is built on four key principles:

1. Nurturing competition and fair markets;
2. Identifying and accounting for the hidden costs of doing business in new ways;
3. Protecting consumers; and
4. Supporting workers as new business models evolve.

Let me take these principles one at a time.

First, I believe in active competition and vibrant marketplaces. Innovation can’t succeed in an environment that mindlessly protects the status quo. Monopolies, cronyism, and outdated laws and regulations only stifle new ideas.

But we also must take care not to allow new monopolies to emerge. We need to protect our markets, not particular businesses or business models.

Second principle: when we upset the status quo, we have to be willing to scrutinize the hidden costs—or externalities—of doing business in a new way.

Whether those costs are damage to the environment, a reduction in public safety, or diminution of our quality of life, we must be willing to identify the external impact of each new business model—and take them into account as we adapt our laws and regulations.

I hope that you will recognize that there are some cyber-libertarians out there who would pretend that these externalities—the costs borne by the broader community—are not their problem. It’s like the oil refinery that refuses to acknowledge that it has responsibility for the collateral consequences of the thick, black smoke that belches from its smokestacks.

Responsible disruption rejects these notions as a crude way of rationalizing socially irresponsible conduct.

Third principle: we have to protect consumers.

Of course, we want to make sure new technologies are providing consumers with greater choice. But we also need to look at legitimate consumer issues posed by new products and services. If a business takes advantage of New Yorkers, through fraud or other means, I will not hesitate to bring the full force of my office against those bad actors. Deceptive practices on the internet are no different than deceptive practices in the mail or on the street.

Finally, we have to consider how workers are affected as old industries give way to new kinds of labor. Whether you are working in a factory or a Brooklyn loft, every worker deserves an honest day’s pay for an honest day’s work. Making sure everyone gets a fair shot is not just the right

thing to do. It's also a smart way to ensure long-term stability in your business. My office strives to support these principles every day.

To sum up, we want to develop smarter tech regulations and law enforcement policies—together with you. In fact, if we want to succeed in the new political and economic realities of America, we must.

That's why my office was the first government agency to become a member here at Civic Hall. We've started to hold office hours here to connect with tech leaders and start-ups. Some of you have already met with members of my team, in fact. We've already gotten some excellent ideas about how to open up government data and work more collaboratively with you. This informal exchange will help us all innovate for the greater good.

Of course, our outreach goes beyond Civic Hall. Just yesterday, I welcomed Tim Wu to my team. Many of you know Tim. He is a leading voice on internet law and tech innovation—a man best known for coining the term “net neutrality.” He will serve as my Senior Enforcement Counsel and a Special Advisor. Tim's forward-thinking ideas on technology will bring an important perspective to our work.

We have also joined with tech clinics at many New York law schools to help tech start-ups navigate our state's complex laws and regulations. We now have partnerships at Brooklyn Law, Fordham, Cardozo, New York Law School, and NYU. While my office cannot give legal advice to private companies, these clinics can. And I have arranged for my office and the New York City corporation counsel to back them up to ensure accuracy. The clinics help early-stage start-ups put down roots in New York. They also help my office see how emerging technologies may run up against our existing regulations.

Tonight, I also have a request for another kind of collaboration from you: I need your help and support to break up the gridlock in Albany and pass a progressive data-privacy bill I introduced earlier this year.

It seems like every few weeks another major data hack is in the news: Target, Anthem healthcare, even the IRS.

Consumers need to know that their personal information is secure—and companies need to know exactly how they can comply with privacy mandates. New York law currently sets no clear standards for data protection and does not protect important modern data like emails, passwords, or biometric information, like fingerprints.

My proposed bill would set a broad baseline of protections for all consumer data. And this baseline is strong but flexible, so it can adapt as technology evolves. But the real innovation is that we would also reward good corporate actors who set up strict security rules. Those companies that voluntarily heighten their security procedures can be given a “safe harbor” protection from certain liabilities. If we provide meaningful incentives for companies to strengthen their security before a breach, we're more likely to avoid large-scale breaches altogether.

My philosophy is simple: catching bad guys after they do something wrong is good. But the best law enforcement changes the playing field so there are no more bad guys to catch.

Ladies and gentlemen, I've dedicated my career to public service because I believe deeply that our government is supposed to be—and can be—an effective, powerful vehicle for our collective action for the common good.

I believe in New York. I believe in this unique, explosive, multi-layered community.

Many of us are motivated by a belief that technology adds to this mix to empower and enable even greater collective action for the common good. That shared sense of mission can make our collaboration very powerful—and the times makes our collaboration absolutely essential.

In just a moment, we're going to start a panel with some of my office's true experts on issues of technology and regulation. Kathleen McGee, the outstanding head of my internet bureau, will talk about data privacy and security. Tim Wu will talk about broadband competition. Eric Stock, who runs my antitrust bureau, will talk about competition issues. And Lacey Keller, who runs my research team, will talk about our open data project and how tech leaders can work collaboratively with government officials.

Thank you for having me here today.

And I look forward to working together to build a better, stronger, smarter New York.