

TECHONOMY NYC

Tech Leadership in an Era of Shared Innovation

Speaker:

Brad Smith, President & Chief Legal Officer, Microsoft

Interviewer:

David Kirkpatrick, Techonomy

(Transcription by [RA Fisher Ink](#))

Kirkpatrick: Brad Smith is the president of Microsoft, and I just have today's paper, *New York Times*, a very insulting headline, I think.

Smith: [LAUGHS]

Kirkpatrick: This is the third page of the business section; it says "Microsoft, Long Seen As Villain, Tries On Role As Moral Leader."

[LAUGHTER]

Kirkpatrick: Now in reality if you read the article, that facetiousness is mostly absent because it is really a good article about a lot of really good things that Microsoft is doing. There are plenty of reasons to have Brad up here, but the reason that I especially was pleased that he could join us is because Microsoft is doing so many good things. And he gets a lot of the credit for it; he's been there a really long time and has pushed in some very powerful directions that I think at the moment given that our theme here is responsibility you are an exemplar of, I think, responsible business. That's something that I really want to say publicly and I really do believe and I also don't think it's coincidental. I was just thinking when I saw that headline, when I used to write a lot about Microsoft when I was at *Fortune*, Craig Mundie once called open-source socialism to me.

[LAUGHTER]

Kirkpatrick: And then he denied it and luckily, I had a tape.

Smith: [LAUGHS]

Kirkpatrick: But there was a—

Smith: Now we're all socialists.

Kirkpatrick: Now you're all socialists; it's good. So, why don't you start by just characterizing how we should think about Microsoft at the macro level, particularly in the context of the technology industry today.

Smith: I guess the first thing I would say is I think all of us in the tech sector and especially companies that have a global footprint you do have both an incredible opportunity and an extraordinary responsibility. I think if you look at the history of technology or just the history of business or just the history of humanity, you'd be hard pressed to find a time when a relatively small number of private sector enterprises have had the kind of global impact that we are seeing today. All of that is really exciting. I think that's part of what it brings people like all of you together. But the responsibility is sort of awe-inspiring. It's exciting to think about what it means to put that responsibility into action. We've spent a lot of time trying to distill it into three pillars that were focused on as a strategy for the company. One is around trust, which is about privacy, security, and AI and ethics. One is about economic opportunity and the way we see technology actually widening certain divides in society and how we need to address that to broaden economic opportunity. And the third is around societal challenges and how technology can help address these societal challenges, like sustainability or accessibility, what we announced yesterday.

But the one other thing that I would say, especially when I see an article like that, is it's great to see people look at what we're doing and recognize that we're trying to do the right thing. And at the same time every day I think, I'm constantly reminded of the leader of another tech company who said about five years ago as they started to fall under regulatory scrutiny, "We won't make the mistakes that Microsoft made in the 1990s; we've studied the mistakes that Microsoft made and we won't make those mistakes." We all make mistakes. What I always want to remind people at Microsoft, it's great to read that kind of story, but we all make mistakes. We're all human, hopefully we remember that and we make fewer mistakes, we make smaller mistakes and we recover more quickly from our mistakes. But the day you think you're not going to make mistakes is probably the day you're going to start driving off a cliff.

Kirkpatrick: Well the article holds your mistakes out as the reason why you're doing so well in a sense. There's a great quote, sorry, just you reminded me of it—

Smith: Yeah.

Kirkpatrick: "The irony for Microsoft is that they lost in search, they lost in social networks and they lost in mobile. And as a consequence, they avoided the recent pushback. It gave them the freedom to take the high road." Which I think is unfair considering your market cap is the second largest, as Martin pointed out, of any tech company.

Smith: Today we're number three.

Kirkpatrick: Number three. But that's pretty darn amazing for a company that is perceived as of the earlier generation. But my feeling having studied you and written about your company a

tremendous amount is you really did learn from your mistakes. And I think that example of open source is a classic one. You really do embrace it now. Right?

Smith: Yes, that's true and I do, as I am quoted in that article as saying, think our mistakes made us stronger. I do think we were forced to mature. When you hit the kind of problems that we hit—that most people have now forgotten about, you know, frankly, the antitrust issues in the 1990s and the early 2000s—you either mature or you die, if you're in the tech business. And happily, we matured. I do think it gives us a greater ability both to be resilient in difficult times, as I always like to say. Everybody has their day when they're on the defensive. It's like, hey look, we had the government trying to break us up, this isn't nearly as big a problem. It puts problems in perspective. But, I do think in the tech sector, I like to say there's no greater strength than humility. Because it just forces you constantly to learn and adapt and that's the only key to longevity when you're in such a dynamic part of the economy.

Kirkpatrick: But there is this very interesting divide that has emerged in technology which has been referred to a number of times on this stage already this morning between what you would call real tech companies and advertising-driven companies. It is, increasingly, I think, being explored as a fundamental question. What does it mean, from a responsibility point of view, from a behavioral point of view, as a company, if advertising is your primary source of revenue, I'm just curious, do you see it that way, that there's a fundamental difference between what you do and companies that are primarily supported by ads?

Smith: I don't know that there's a fundamental difference in what we do; there may be a distinct difference in how we get paid. I think that's what it comes down to.

Kirkpatrick: But that's the driver of a lot of behavior.

Smith: It does. It can be. Yeah, I think in the world today, we're seeing multiple business models emerge for technology, clearly over the last twenty years that has changed substantially, and that's going to continue to evolve and I think there are going to be even more multifaceted opportunities for companies young and old. The truth is no matter what business model you have there is always a point in time when you face a question, do we make more money, or do we sacrifice and leave some money on the table for some other goal. It may be making more money in the longer term, versus the short term, it may be striking a balance that we feel is more sustainable as say a responsible, global company. What we are obviously seeing play out in some quarters is this tension between more advertising revenue and what that means to monetize people's personal data in a way that may cause people to feel uncomfortable.

Kirkpatrick: And monopolize their time.

Smith: Well, certainly there is this interesting question, and what I find interesting about that is it's not the first time that technology has been accused of this—let's just call it taking too much of people's time. We saw the same thing with television in the 1970s and 1980s. One of

the stories I have been sharing with Microsoft execs internally this spring is an article that was published in 1946. It was called, "1946; The Year Of Rebellion Against Radio."

[LAUGHTER]

Kirkpatrick: Really?

Smith: Basically saying—and it frankly speaks to many of the themes you're talking about here because the advertising was then being driven by, radio, was being driven by advertising. It had become more of a mass market; it's what led to the regulatory backlash against radio that we then took for granted for a generation. So, you always have these tradeoffs. One shouldn't think that only advertising-based companies have a set of tradeoffs, but they're more pronounced at the moment, they're more in the headlines at the moment. Because it's pitting people's privacy rights and data, I think we're all paying more attention to it, which is not bad.

Kirkpatrick: Okay, I want to get to some global things in a minute, but while we're on business models, Microsoft's doing an extraordinary job with cloud services at the moment. You're now really giving Amazon a run for their money and I think that's increasingly recognized, which makes them nervous. But it's also very interesting to me the recent set of principles that I know you personally spearheaded about how to conduct that business. Would you just briefly talk about that and why you did it? And then I'll ask you a question or two.

Smith: Sure. First of all it's fascinating to see yet another wave of technology innovation and what it means for our business, our business model and businesses around the world. Namely every company as we know is transforming through digital technology. What it means is if you're a company like Microsoft, is we're no longer just selling software or solutions to our big customers, we're actually innovating with them. We have consultants and others, our engineers increasingly, helping co-create technology.

So, one of the interesting questions that arises is, in part, if you're a customer, you worry about is this tech company going to end up learning from me and then entering my market and competing against me. In part, to allay that concern, because it's not where we see ourselves going, we like to say, "We're not going to make cars, we're not going to sell groceries," and therefore we said, we'll embark on this initiative where when we co-create technology, the customer will own the patent rights. The customer will own the design rights. We'll get a license back but only so that we can deploy that invention in a certain defined category of platform services, like Azure. But other than that, we can't use that technology to go into that business in any kind of verticalized way. What we're finding is that customers say, "Yeah, that's basically what we were looking for. We want to be able to create with you and know that we're in our business, you're in your business, it doesn't mean that we'll always stay separate, but we own our intellectual property rights, Microsoft doesn't."

Kirkpatrick: Okay, so was that intended to pose a fundamental contrast to one other company? Because Amazon hosted Netflix and then went into direct competition with them.

Amazon sells products for everybody, identifies those that are selling best, and then builds house-brand, generic products in order to interest many of those markets. That's a known thing that that company does over and over again. Is it in order to distinguish yourselves from Amazon, that you're doing that?

Smith: I would say that is one thing that has resulted. Frankly, it was designed to address questions and concerns we were hearing from customers. Interestingly, as I was travelling the world last fall, every time I would visit one of our subsidiaries and meet with the leadership team and the very first question they would ask is, "Can you all give us something, so we can set these concerns to rest?" I do think that one reason more customers had these concerns is some of the phenomenon that you're describing. And if it does differentiate us, well, you always like to be differentiated from your competition. But it was really driven directly by customer request to come up with something that was simple and that our sales force could use around the world.

Kirkpatrick: It does seem like cloud is an enormous opportunity for you guys as every company is moving there and you have such a good technology reputation. But let's talk about law, which, you're a lawyer. You ran Microsoft's legal department for much of your career, and you've done a lot of things that are sort of uniquely aggressive to stake out a global position on how you think companies and governments ought to interact in this global age in where companies are so often global and governments are not. Talk about how you think about that and some of the things that you've done that you think are most noteworthy.

Smith: It's interesting we've found ourselves thrust into these issues initially in 2013, one month after the Snowden revelations. We wanted to share more information publicly about the kinds of national security orders we were getting. The government was telling us we could not. So, we filed a lawsuit arguing that we had a first amendment right to do that. Ultimately, it was President Obama's personal intervention that led the Justice Department to settle that case with us in early 2014—

Kirkpatrick: Wow, I didn't remember that.

Smith: It opened a door to go share more information. We ended up filing four lawsuits over five years against the federal government, so that we could either stand up for our customers' privacy rights, and say no to certain search warrants, or redirect them to customers or publish more information. Now, interestingly, that, in a way ended up creating a foundation for what became rapidly a new generation of issues in the Trump administration. And there again, you sometimes find yourself just thrust into things suddenly, one month, less than one month after the inauguration, there was the travel ban, everybody in the industry was thrust into that. We all found ourselves working together in more concrete, constructive ways. Competitors coming together. We have followed that with a lawsuit of our own, where we have combined with Princeton University to sue the federal government over DACA. And we were encouraged that just a few weeks ago, we won what is the farthest-reaching district court decision that would just suspend DACA entirely and open the door for people to come and file new applications.

Kirkpatrick: That's a big deal.

Smith: So, yeah. Those—to speak to your—

Kirkpatrick: Not the thing you think Microsoft is going to be leading, by the way.

Smith: Yeah. It shows, that law is one very important part of how society and technology intersect. You know, there's issues of law; there's issues of broader public policy, a lot of these are fundamentally issues of international relations. And there are broad societal questions. Just for the public at large, you ask, are people spending too much time using technology? Ultimately, that is something that can be impacted by law, regulation, and policy and ultimately everyone in their home at their dinner table. And it just, I think, reflects the sweep of these issues today.

Kirkpatrick: Well, let's just look a little bit at some of these global things because you recently organized a number of technology companies, I think Microsoft really did take the lead. On like thirty-some companies—

Smith: Thirty-four.

Kirkpatrick: Thirty-four companies.

Smith: We call it the Cybersecurity Tech Accord.

Kirkpatrick: Thanks. What is it?

Smith: It is an agreement that 34 companies initially signed, and the number is continuing to grow—

Kirkpatrick: Facebook was one of them. Not Google.

Smith: Not yet. But we'll see. But there's four principles that we all signed up for together. The first is that we would all protect customers, regardless of their technical acumen, fundamentally regardless of their nationality, it puts a stake in the ground and says look we have a global responsibility when we release patches to make them available to everyone and protect customers everywhere.

Kirkpatrick: Not pick and choose governments or countries, which is a risk.

Smith: It is. It is, and this is not the whole thing is not without at least a little bit of controversy in some quarters because we live in an age where some people and some governments and some countries say, "What do you mean you're helping everybody? You should just be helping us." The second principle says we're not going to help any government attack on innocent citizens or enterprises. And especially in the wake of the two biggest cyberattacks last year, being both government launched, it was the WannaCry attack in May

and the NotPetya attack in June, these companies say, "We will not help governments launch those kinds of attacks.

Kirkpatrick: Were those both North Korea?

Smith: No. The first one was North Korea, the second was Russia.

And then there are two other principles that really are about how we're going to work together to put these into practice. One is that we're going to collaborate more closely, share more information with each other, and that we're going to invest together to build the resilience in cybersecurity capabilities of the entire ecosystem. Which in practical terms, often means smaller businesses and nonprofits, where just the state of cybersecurity protection may not be as strong.

Kirkpatrick: One of the things you and I have discussed before and it's a big issue for us at Techonomy, is this weird contradiction between global business and national governments. Especially at a time when the internet is globe-spanning and a number of other phenomena are truly global, we do not have global regulatory institutions, global oversight institutions. Do we need them? And how do we get to them? I mean, I take it for granted we need them in some way, if we could get them. Do you agree with that first of all?

Smith: I generally do. I mean, first of all the principle I always like to start with is that no one should be above the law. No individual, no government, no company. Now we get into one of the great contrasts and even tensions of our time. All laws, almost all laws are still territorial. They're national. They're implemented; they're decided upon by single governments. And yet we live in a world where technology and technology companies and other companies in the economy are global. So, one of the great tensions of our time is how do you ensure that global actors remain accountable in a world of national laws? How do you, in particular, evolve the law? How do you evolve policy or regulation in this manner? I think it means that at times, one of the things I like about the tech accord is it gives us the opportunity to start to articulate some global principles. As you build a consensus around global principles, you have the opportunity for them to find their way into what may be national regulations. It may be continental regulations if you're thinking about the European Union; they may become the building block for what will become global agreements over time, but I think when people look back two or three hundred years from now, they're going to look at the 21st century as a century where one of the defining features was this tension between globalism and nationalism. Obviously, you see it playing out every day in politics in the United States.

Kirkpatrick: So, do we need some truly, a true global convention on cyberspace that brings government and businesses together to talk about this weird dichotomy and how overcome it and work together at a global level?

Smith: Well, I think the answer is emphatically, yes. And we have called for that and we have to keep in mind that it is a long-term vision. The first thing we have to keep in mind is we did

inherit some very important global conventions from the 20th century. And in my mind, one of the most important was established in 1949 when the world learned from the horrors of World War II and adopted what was called the Fourth Geneva Convention. It said that every government around the world has not only a moral responsibility but a legal duty to protect civilians, even in times of war. Then when we see North Korea launching a WannaCry attack that disrupts 19,000 hospital patients in the United Kingdom, you see a government attacking civilians in a time of peace. And so, what we've said is let's build on the law that exists today, like that convention, like the United Nations charter, but then let's identify the gaps and fill them in. We need a new Geneva Conventions as we've said. We need new digital Geneva Conventions that will protect civilians around the world from these kinds of attacks. And I think, interestingly, as you have pointed out, and that is where the tech sector accord fits in, we need principles not only for governments in the world today, we need principles for companies as well.

Kirkpatrick: We really support that here at Techonomy and we want to do anything we can to drive that forward. One of the things I know you really think a lot about, and we don't have tons of time, but is how technology is affecting social divides and what we ought to do about it? So, talk about that briefly. I want to take a question or two from the audience but how do we think about that?

Smith: Well, I would say that there's three things we should all keep in mind. First as jobs become more digitized—and studies show that all jobs are becoming more digitized—what it obviously puts a premium on is people who have digital skills. Then you realize that there are two areas of technology that I think are exacerbating the divides that we care about in this country and others. If you think about the gender divide, the racial divide, the economic divide or the urban/rural divide. And then look at where digital skills are being adopted today. If you look at who is taking computer science in high school, if you look at who is graduating with a computer science degree in the United States in college, what you see is that the group that is acquiring these digital skills is more white, more male, more affluent, and more urban than the population as a whole. So, digital skills are exacerbating these other divides. The same thing is happening with broadband. If you look at where broadband is available, or being adopted, it is available to people who are more affluent, more white, and more urban than the population as a whole. So, I think we have to start by recognizing that a lot of what we talk about in politics in the United States today is in fact being heavily influenced by these two technology trends. And we need stronger public policies and private sector action together to try to close these divides. If we fail to do that, all of these other divides are going to get larger not smaller.

Kirkpatrick: Wow, that's a great way of putting it and very eloquent. There are plenty of things on my list but I'd like to give the audience a chance to chime in. I see my friend, David Lee, over there with his hand up.

Lee: My name is David Lee from MPowerUSA. Brad, I thank you for the consistency of your nuanced discussion. We were at Rise of the Rest in March in D.C. You touched on regulation.

You talked about policy a bit, I didn't hear you speak on the [Microsoft] TechSpark initiative and the things that you are doing in six states. MPower is very active in the innovation, entrepreneurship and just generally bringing, I guess, some gravity around the digital divide which is happening. We don't have skilled workers moving into these professions.

Can you talk about the relevant role and outcomes you feel these states and I don't want to get to big global, but what can these state officials do to shape true policy? The things you're doing at Microsoft are really tremendous. What is their role in regulation? Smart regulation. To make these initiatives happen, because it is not on the private sector by itself.

Smith: Well, I would say there are three areas that are really important opportunities for state governments in this space. Number one is rural broadband. I do think that some states are starting to focus larger public sector investments, as they should, at specific rural counties that don't have broadband access today. I think that the smartest public funding goes to reduce the cost of capital, basically the capital investments made especially by smaller telecommunications companies so that they enter this business. I think the second thing that states really need to drive is public education around coding and computer science. You know, there are 42,000 high schools in the United States. Last year the number that offered the AP class in computer science was 7,665. So, less than 20 percent. And there are a variety of state initiatives that can be taken in that space.

The third and broadest and looming question for, in particular, state governments across the country is fundamentally about the social contract that exists in this country. If you think about the laws that we think about today, having a minimum wage, having certain health and safety standards, having certain rights around benefits, or even social security and retirement. All of these are fundamentally based on the technology and ways of working of the first half of the 20th century. And I think that all of us in the tech sector, I just believe we need to be incredibly mindful of the fact that as we are creating these new platforms. Whether it is an Uber or an Amazon, Turk or anything, we just have to ask ourselves: Do we fundamentally want to create a world where people get up and put in an hour's hard work and fail to earn the equivalent of a minimum wage? Because when you have people who are not working as employees, as tech companies are arguing, they don't get that kind of entitlement. And I don't think that's what people want when they go to work in a tech company in San Francisco or anywhere else. And we have to ask ourselves, what is it that it will take for us to do what we should do as companies, but what is it that it will take as governments and it will be at the state level and that will ensure that the workers of the 21st century don't end up losing what people have taken for granted in this country for a hundred years.

Kirkpatrick: Wow, that was great. We can probably get both of you real fast. Why don't you both ask your questions?

Grossberg: Hi there, Adam Grossberg, great discussion. How do you embed this into the ethos of Microsoft when you've been through so many changes? How do you incentivize different businesses to make sure that this is part of the fabric of what you do?

Attendee 1: Completely different topic. One of Microsoft's biggest businesses is what you used to call productivity software and Office. Historically productivity advances have been the thing that have improved wages on the low end of the spectrum and things like that. What can Microsoft do to make productivity grow faster? It's been very slow lately.

Kirkpatrick: Oh, you care about that issue. Oh, those are two interesting questions.

Smith: Two very different questions.

Kirkpatrick: They might be knit together if you're really creative.

Smith: Boy, this is—

[LAUGHTER]

Smith: This is like the Ph.D. oral exam. No, I actually do believe that we, hopefully, are at, on the cusp of a new era of using technology to enhance people's productivity. We see it across the board, you certainly see AI leading to automation of a lot of basic tasks, so much so that we're going to see productivity rise and have to worry about people who are displaced. But say for professionals, we definitely do see an era where technology is creating more, we hope, productive meetings. The ability to help people be more creative, find the data they are looking for, I think we're all going to be using AI tools five years from now to get ready for meetings, and to make decisions, and write, and create, in ways that we are not today. On your other question, it is a fascinating question, because when you have a company of 120,000 people, it's easy to walk into work every morning and ask yourself, wow, I wonder what's going to go wrong today?

Kirkpatrick: Especially when you're the lawyer.

[LAUGHTER]

Smith: Yeah. Fundamentally, what we have found is this, first to really define a set of principles that will govern how we will make decisions. So, increasingly, you'll see us articulate four principles around what we think it takes to have a trusted cloud. We have these six principles around the shared innovation initiative, and we do use those as we then make difficult decisions. There was a decision, sometimes the most difficult decisions do end up on my desk, and there was a principle where we said we would stand up for customers and contest a particular issue in court and there was a day when our litigators came and said, "Look, we don't want to fight this one, we're gonna lose." But we said we would fight it and I remember the conversation and I said, "Look, I'm okay being a loser, I'm just not okay being a liar." Let's keep that in mind. We will stand up and there will be days when we will lose.

[APPLAUSE]

Smith: You know, so, I do think that the more one can, in business and elsewhere, articulate principles, share them, and then show that you actually act on that basis, it helps. The other

thing I will just say in closing, and it's frankly one of the reasons I am always enthused about doing things like this, is that I think employees today place so much stock in what their employers are doing, but they fundamentally listen to what you say internally and they listen to what you say externally, and then they watch what you do. And it's only when you have alignment among those three, that they then understand, ahhh, that's where we're going. So, the best internal discussion, is sometimes an external conversation that everybody can then follow of the sort that you create here, David.

Kirkpatrick: Fantastic, Brad. Thanks so much.

Smith: Thanks.