

Carr Opposes Plan for Government Control of the Internet

WASHINGTON, DC, September 27, 2023—FCC Commissioner Carr issued the following statement:

In an [Executive Order](#), President Biden—like President Obama before him—called on the FCC to apply vast and expansive government controls to the Internet. This is part of the Administration’s plan for imposing new, utility-style “net neutrality” regulations under Title II of the Communications Act of 1934. Yesterday, the Chair of the FCC announced that the agency will start the process of increasing government power over the Internet. I oppose this unlawful plan. The American people want more freedom on the Internet—not greater government controls over their online lives.

Six years ago, Americans lived through one of the most Orwellian campaigns in regulatory history. They were told that the 2017 decision by my Republican FCC colleagues and me to overturn the Obama Administration’s failed, two-year experiment with government control of the Internet would mark “[The End of the internet as we know it](#)” and that “you’ll get the internet one word at a time.” None of the Apocalyptic predictions came to pass. Quite the opposite.

Since the FCC’s 2017 decision to restore Internet freedom, broadband speeds in the U.S. are up, prices are down, competition has increased, and record-breaking broadband builds brought millions of Americans across the digital divide. Utility-style regulation of the Internet was never about improving your online experience—that was just the sheep’s clothing. It was always about control.

This utility-style regulation of the Internet entails sweeping new government controls. But do not take my word for it. Two of President Obama’s former Solicitors General—some of his top lawyers at the DOJ—wrote just last week that Title II regulation of the Internet “would vastly expand the Commission’s authority and would transform the way a federal agency regulates a vitally important element of our economy and the personal and social lives of hundreds of millions of Americans.” That includes targeting pro-consumer offerings under a boundless “general conduct” rule. Americans want the freedom to express themselves online, not freewheeling micromanagement by government bureaucrats.

This utility-style regulation opens the door to broadband rate regulation. There is no more surefire way of killing off investment and innovation than putting price controls squarely on the table. Adjudicating broadband rates under a “just and reasonable” standard should be a nonstarter.

This utility-style regulation will slow down rural broadband builds. The last thing that broadband builders across rural America need right now is a regulatory onslaught from Washington. Yet that is precisely what Title II utility-style regulation entails. As the FCC determined in 2017, the agency’s 2015 experiment with Title II regulation negatively impacted small ISPs that serve rural communities. Indeed, those small ISPs *reduced* broadband infrastructure investment due to the FCC’s 2015 Title II decision. Compare that to the significant narrowing of the digital divide that we have seen in the years since the 2017 decision—a decision that returned the Internet to the same, bipartisan, and light-touch regulatory framework under which the Internet flourished for more than 20 years.

Utility-style regulation will hit Americans in their pocketbooks. Since 2017, the prices Americans pay for Internet services have *decreased* on an inflation-adjusted basis. Meanwhile, the prices for utility-regulated services like electricity, water, and gas have *increased* over two times faster than the prices for Internet services. Monopoly regulations invariably lead to monopoly prices. In addition, Title II regulation opens the door to regulators adding new taxes and fees to consumers' monthly broadband bills.

This plan is a big gift to Big Tech. As the past few years have made clear, Big Tech companies have engaged in a discriminatory pattern of gatekeeper conduct. Yet Big Tech companies have been some of the longest and deepest-pocketed backers of "net neutrality" rules. Why? Because Title II regulations apply only to Big Tech's competitors, distract regulators' attention from actual problems, and leave Big Tech companies free to continue operating in a biased and non-neutral manner.

This plan is unlawful, as President Obama's lawyers makes clear. Just last week, former Obama Administration Solicitors General, Don Verrilli and Ian Gershengorn, published an important [legal analysis](#). The two respected lawyers concluded that Title II regulation of the Internet "would be struck down" and "would be a serious mistake."

Indeed, launching a Title II rulemaking would represent a "massive waste of resources for the government, industry, and the public, as well as the lost opportunity to pursue more pressing policy goals such as deploying robust broadband service to all Americans," the Obama Administration alums stated. Or, as former FCC Chairman Ajit Pai previously remarked, Title II regulation "is a solution that won't work to a problem that doesn't exist."

I agree. Rather than heading down the doomed and damaging path toward Title II, the FCC should focus on advancing the many important policies over which the Commission does have authority—from rural broadband and spectrum to public safety and illegal robocalls.

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