

**STATEMENT OF
CHAIRWOMAN JESSICA ROSENWORCEL**

Re: *Safeguarding and Securing the Open Internet*, WC Docket No. 23-320, Notice of Proposed Rulemaking (October 19, 2023).

It was three-and-a-half years ago when we were told to stay home, hunker down, and move work, life, and school online. But too many of us were left out and left behind, without the broadband connections required for day-to-day life. We all saw it: kids with laptops perched on their knees, lingering outside of fast food restaurants just to catch a wireless signal to go to online class, adults sitting in parked cars wherever they could find Wi-Fi so they could keep up with family, friends, and work, and seniors who had to turn down telemedicine appointments because they didn't have the bandwidth they needed to keep up with their healthcare.

That moment made it crystal clear that broadband is no longer nice-to-have; it's need-to-have for everyone, everywhere. Broadband is an essential service. That's why Congress invested tens of billions of dollars into building out our networks and making access more affordable and equitable, including the historic \$65 billion investment in the Bipartisan Infrastructure Law. And this is why at the Federal Communications Commission we stood up the Affordable Connectivity Program, which is helping 21 million households get online and stay online. We understand that in the United States we need broadband to reach 100 percent of us—and we need it fast, open, and fair.

But even as we reconfigured our lives to do anything and everything online, our institutions failed to keep pace. Today, there is no expert agency ensuring that the internet is fast, open, and fair. And for everyone, everywhere to enjoy the full benefits of the internet age, internet access needs to be more than just accessible and affordable. The internet needs to be open.

That is why for as long as I have served on the FCC, I have supported net neutrality. But in 2017, despite overwhelming opposition, the FCC repealed net neutrality and stepped away from its Title II authority over broadband. This decision put the agency on the wrong side of history, the wrong side of the law, and the wrong side of the American public. Remember 80 percent of people in this country support net neutrality.

Today, we begin a process to make this right. We propose to reinstate enforceable, bright-line rules to prevent blocking, throttling, and paid prioritization. These rules are legally sustainable because they track those that were upheld in court in 2016—from front to back. They would ensure that the internet remains open and a haven for creating without permission, building community beyond geography, and organizing without physical constraints.

But re-enacting legally sustainable net neutrality rules is not the end of the story. Because in the subsequent years, events proved why broadband is essential—and why we need to restore this agency's Title II authority.

Let's talk about public safety. With Title II classification, the FCC would have the authority to intervene when firefighters in Santa Clara, California had the wireless connectivity on one of their command vehicles throttled when responding to wildfires. Title II would also bolster our authority to require providers to address internet outages, like in Hope Village, a neighborhood in Detroit that suffered through a 45-day internet outage during the pandemic and had little recourse. Because when the FCC turned away from overseeing broadband, the only mandatory outage reporting system we can have in place is focused on long distance voice service outages—and in a modern digital economy where we live our lives online let's face it, that doesn't cut it.

Consider national security. While the agency has taken a series of bipartisan actions to reduce our dependence on insecure telecommunications equipment and keep potentially-hostile actors from connecting to our networks, it is not enough to keep our adversaries at bay. When we stripped state-affiliated companies from China of their authority to operate in the United States, that action did not

extend to broadband services, thanks to the retreat from Title II. This is a national security loophole that needs to be addressed.

Think about cybersecurity. We are actively working with our federal partners on cybersecurity planning, coordination, and response, including on issues like secure internet routing in order to prevent malicious actors from exploiting protocols that make it possible for them to hijack our internet traffic. But without reclassification, we have limited authority to incorporate updated cybersecurity standards into our network policies.

Look at privacy. The law requires telecommunications providers to protect the confidentiality of the proprietary information of their customers. That means that these providers cannot sell your location data, among other sensitive information. Those privacy protections currently extend to voice customers but not broadband subscribers. Does that really make sense? Do we want our broadband providers selling what we do online? Scraping our service for a payday from new artificial intelligence models? Doing any of this without our permission?

Let me say a few words about what we are not doing here. This is not a stalking horse for rate regulation. Nope. No how, no way. We know competition is the best way to bring down rates for consumers. And approaches like the Affordable Connectivity Program are the best bet for making sure service is affordable for all. We will not let broadband providers, gatekeepers to the internet, dictate what we can and cannot say online. And we will not undermine incentives to invest in broadband networks, which were robust as ever when these rules were in place. On top of that, Title II will make it easier for competitive providers to access pole attachments and apartment buildings.

Plus, restoring our open internet policies will mean that a uniform legal framework applies to the whole country. Because if you hear cries that nothing has happened since the FCC retreated from net neutrality and are asking yourself what is the big deal, think again. Because when the FCC stepped back from having these policies in place, the court said states can step in. So when Washington withdrew, California rode in with its own regime. Other states, too. All in all, nearly a dozen put net neutrality rules in state law, executive orders, or contracting policies. So in effect, we have open internet policies that providers are abiding by right now—they are just coming from Sacramento and places like it. But when you are dealing with the most essential infrastructure in the digital age, come on, it's time for a national policy.

In the wake of the pandemic, we know that broadband is a necessity, not a luxury. That's why we made a historic commitment to connecting all of us to broadband. Now we have work to do to make sure that it's fast, open, and fair.

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