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Net Neutrality Is Bad for Consumers

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Article Commentary

"A vibrant broadband industry will address the potential concerns of net neutrality advocates without the downside of oppressive regulation."

Jessica Melugin is an adjunct scholar at the Competitive Enterprise Institute, a nonprofit public policy organization that advocates for the free market principles of limited government and individual liberty. In the following viewpoint, Melugin argues that the 2015 Open Internet Order, in which the Federal Communications Commission (FCC) established rules for maintaining net neutrality, should be repealed to allow broadband service providers to operate without the financial burden of excessive government regulations. Though the majority of Americans have expressed support for net neutrality, the author maintains that most net neutrality advocates fail to understand how the constraints of the policy have deterred investment, limited innovation, and driven up consumer prices. Despite the current situation in which most broadband users have limited options in choosing a service provider, Melugin asserts that new firms will enter the market to compete with the few companies offering broadband service.

As you read, consider the following questions:

1. According to the author, how has the FCC's Open Internet Order hurt the broadband service industry?
2. Why does Melugin compare websites to products in a grocery store? Do you think the analogy is effective in supporting her point? Explain your answer.
3. Do you agree with the author's assertion that the government should not enact legislation for hypothetical future problems? Why or why not?

The FCC's proposed rollback of its 2015 Open Internet Order has put the term "net neutrality" back in the political zeitgeist. The phrase itself is more strategic marketing than precise meaning, but understanding that all it really means is heavy-handed government regulation of the internet makes it clear that net neutrality policy is bad for broadband consumers.

The net neutrality debate has little to do with making the internet open for users to go where they wish online. Americans have always enjoyed that liberty, even before the Open Internet Order was passed, and broadband providers, sometimes called ISPs, have every incentive to provide that freedom to their customers.

The net neutrality debate is actually about who will influence the future of the internet. The order's reclassification of the internet as a telecommunications service put it under utility-style Title II regulation. And just like that, voila, the internet became regulated like Ma Bell circa 1934.

That means Washington lawyers and unelected bureaucrats are now extremely influential in how this industry proceeds. Instead of engineers and investors freely innovating to give consumers what they want, the new authority will be the same folks who brought you the Internal Revenue Service and the Department of Veterans Affairs. Suffice it to say that federal agencies have a less than sterling record for innovation and customer service.

So what do broadband consumers actually want? They want faster broadband, they want it available more widely, and better value from their ISPs. Those innovations are the product of huge investment by broadband providers. But just the opposite, regulations drive up the cost of doing business, which results in ISPs being forced to divert money away from innovations and/or charging customers higher prices. In this way, the FCC's net neutrality regulations harm consumers.

FCC Chairman Ajit Pai has cited a decrease in domestic broadband capital expenditures among the nation's 12 largest ISPs between 2014 and 2016. Smaller ISPs have reported that the Title II regulations are preventing them from offering new services and deepening their networks. It seems that consumers are already feeling the harmful, unintended consequences of the 2015 order.

The order also banned the prioritization of one type of data over another on broadband networks. Specifically, it banned “fast lanes” by forbidding ISPs from entering into agreements that offer paid priority to certain applications, services or companies.

This is akin to the federal government telling a grocery store it can’t make business arrangements with food or distribution companies for prominent shelf placement or special end-of-aisle displays, because the grocery store could favor its own generic brands and “shake down” Kraft and Nestle. Of course it’s absurd to suggest huge companies like those would need regulatory protection. And it is no less ridiculous to assert that giants like Google, Facebook and Netflix need regulatory protection from the FCC.

The federal government itself engages in parallel types of prioritization: charging more for expedited passport services, faster delivery of mail by the post office, or membership in the TSA Pre-check program. These are all similar arrangements to what the FCC made illegal for broadband companies and their customers. Hypocrisy is a Washington specialty.

Net neutrality advocates seek to protect consumers from future, theoretical harms at the expense of today’s real losses in innovation and money-saving efficiencies. The market will provide consumers with ample choices among ISPs to ensure customer preferences are the reality of the internet, if government will simply get out of the way.

If more competition in the broadband marketplace empowers consumers by giving them more ISPs to choose from, then increasing the regulatory burden and cost of doing business means a bigger barrier to entry for future ISPs and less leverage for consumers. A vibrant broadband industry will address the potential concerns of net neutrality advocates without the downside of oppressive regulation.

So what should the FCC be doing for consumers? It’s not, as net neutrality advocates argue, protecting them from online fast lanes, guarding against hypothetical problems that have yet to materialize, or prohibiting service plans with free perks like unlimited music streaming. Instead of regulating under the vague notion of net neutrality, the FCC should be busy instituting a regulatory environment that maximizes incentives for ISPs to give consumers the fastest broadband, the largest service area, and the most value through varied service plans. Rolling back the 2015 Open Internet Order is a good start.

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