

The Biden-era FCC Dilemma: Would Restoring Net Neutrality Regulations Hurt the Poor?

By PURC Team

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Proponents of net neutrality have seen Internet regulations seesaw wildly, beginning in 2015, when the FCC under chairman Tom Wheeler designated Internet access as a “common carrier,” effectively bringing Internet Service Providers (ISPs) under the FCC’s telephone-era regulations. Issues surrounding net neutrality spark extraordinary amounts of controversy and inflammatory rhetoric, typically spilled without supporting evidence.

Advocates of net neutrality have often referred to the regulations as a fundamental defense of free speech. The ACLU echoed that sentiment when it classified free access to the Internet as a “right to access what you want and how you want it on the Internet,” and even more emphatic proponents claimed that without the regulations, the First Amendment itself would be at risk.

In early 2018, several governors issued executive orders endorsing neutrality principles, and New York City Mayor Bill de Blasio managed a coalition of mayors that vowed to punish abuses of the Internet. New York Governor Andrew Cuomo proclaimed a rallying cry, promising to take “all necessary steps” to protect net neutrality because “the Internet must remain free and open to all.”

That campaign failed when legislative proposals designed to restore net neutrality regulations through Federal lawmaking stalled in Congress—similar efforts in thirty states also failed to gain traction. Meanwhile, the FCC, chaired by Ajit Pai, proclaimed the “death” of Obama-era rules requiring ISPs to treat all Web platforms and content equally. The “Restoring Freedom Order” effectively restored the light touch regulatory approach that had governed the Internet from its inception until common carrier regulations were imposed in 2015.

Although net neutrality has never occupied a prominent role among either Republican or Democratic political campaigns, the conflicts surrounding net neutrality have been alarmingly intense, including personal and death threats aimed at Chairman Pai and his family.

The FCC in Early 2021

In the spring of 2021, the “Restoring Freedom Order” faced potentially fatal threats from the Biden FCC, whose acting chairperson, Jessica Rosenworcel, strongly endorses net neutrality regulations. Nevertheless, Rosenworcel heads a commission whose members are split between two Democrats and two Republicans, a political balance that may paralyze partisan FCC decision making indefinitely unless a third Democrat is appointed to the commission.

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The restored “light touch” approach to regulation still prevails for the time being, but political standoffs, together with solid research evidence challenging the efficacy of net neutrality regulations in achieving critically important goals, mean that the future of net neutrality remains unclear.

Will FCC Policies Follow the Science?

The COVID-19 pandemic has focused attention to the role of scientific evidence in decision making—especially initiatives, widespread practices, and policies affecting many millions of people.

The following questions assume increasing significance in view of the enormous positive effect of Internet access throughout the course of the pandemic—benefits that the Center for Disease Control predicts will remain highly significant as variant viral strains develop and spread:

- Will FCC commissioners and informed public opinion respect the role of scientific research in shaping internet policies and practices?
- To what extent will partisan agendas shape policies governing such critically important matters as incentives for investment in broadband expansion in low income and rural communities?

Recent articles and reports have called attention to research evidence contradicting unsupported popular beliefs about the efficacy of net neutrality regulations. In a 2019 journal article titled “Net Neutrality Policies and Regulation in the United States” by Mark Jamison, Ph.D., provides an overview of the history of regulations in the United States and the most highly rated economic research on net neutrality. He found little scholarly support for net neutrality regulations. More recently he summarized new research by European economists that confirmed that countries embracing light touch approaches experienced more high speed broadband investments than have more regulatory countries. Dr. Jamison explains that this means returning to the Obama-era regulations would lead to fewer internet resources in sparsely populated areas and in communities predominantly inhabited by low income families. Dr. Jamison concludes that based on research evidence, President Biden should oppose net neutrality.

A transcript of a recent interview of former FCC chairman Ajit Pai about the prospects for improved expansion and functioning of the internet, also confirms that sustaining currently “light touch” regulations and encouraging bipartisan FCC policy initiatives would be more likely to accomplish goals for broadband expansion than renewal of strict regulatory restraints designed to govern the commercial behavior of ISPs.

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Three major factors are most likely to influence the trajectory of internet regulatory policies in the next three years:

- Whether internet regulatory policies will rely on reliable information developed through objective research and evaluation;
- Whether the Biden-era FCC can avoid and prevent distractions such as political conflicts, internet censorship, and other unpredictable factors from compromising decision making; and
- Whether the FCC will effectively resist and correct misinformation reflecting wishful thinking unsupported by research evidence

Objective studies confirm that continuing advances in digital innovation, their dissemination, and their continued spread over time—both within the next four years and beyond—will most likely occur without interference from counterproductive rules and regulations.

Most people of either major political persuasion would probably agree that a fundamental priority affecting all sectors and regions of American society should be to increase the accessibility and affordability of the Internet. The sharp disagreements focused not on the goal, but on the methods for achieving it.

The oppressive effect of the pandemic on all aspects of American life has consistently confirmed the importance of the Internet and Internet services in all aspects of American life.