



FCC Ruling is Irrelevant

There have been sighs of despair and much hand-wringing coming from observers of the latest attempt by the FCC to intervene in the operations of the Internet. The noisiest came from one of the two commissioners who voted against the ruling, Robert McDowell.



Despite a court ruling earlier this year which limited the FCC's jurisdiction over the Internet, and Congressional pressure to leave well enough alone, McDowell warned that the FCC's decision yesterday is "likely to have the perverse effect of inhibiting capital investment, deterring innovation, raising operating costs, and ultimately increasing consumer prices." He concluded that this decision "may end up marking the beginning of a long winter's night for Internet freedom."

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McDowell isn't alone in his thinking. [Neil Stevens](#) unhappily claimed that the FCC now has "the authority to regulate the Internet," and that this intrusion has created "an entire 'framework' for future government meddling online." Michelle Malkin called the FCC's announcement "Webcare" and compared it to Obamacare in its audacity and unconstitutionality. She [claimed](#) that the FCC "will devise convoluted rules governing Internet service providers, bandwidth use, content, prices and even disclosure details on Internet speeds."

At first blush, it appears that the FCC's claim of authority is sufficient on its face. And one of the other FCC commissioners who voted in favor, Michael Copps, outlined some of what [his plans are](#) for the near future:

1. Meaningful Commitments to News and Public Affairs Programming
2. Enhanced Disclosure
3. Political Advertising Disclosure
4. Reflecting Diversity
5. Community Discovery
6. Local and Independent Programming
7. Public Safety

As author Clabough makes clear, it's all about control by unelected bureaucrats pursuing their own agenda regardless of any "push back" from opponents:

The totalitarian nature of the FCC's ruling was exposed by those seeking more government control over the Internet. Sen. Al Franken (D-Minn.) says that, as a "true advocate of a free and open Internet," he wants a "level playing field" for all participants, determined, naturally enough, by the



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FCC. The “net neutrality” (Owellian code for government intervention) cannot allow companies like Comcast and Verizon to offer premium and privileged access for those of its customers able and willing to pay for it. That would be discrimination, for Heaven’s sake. And without sufficient teeth, the FCC would be unable to “influence” the behavior of such “Internet service giants.”

For instance, Verizon could prevent you from accessing Google Maps on your phone, forcing you to use their own mapping program, Verizon Navigator, even if it costs money to use and isn’t nearly as good.

This is so reflective of anti-free market ideology, which simply means that people paying for services aren’t intelligent enough to make their own personal decisions about those services — government bureaucrats need to help. Without such help, Franken observes: “The Internet as we know it would cease to exist.”

All of which is just plain silly. The Internet grew up between the cracks of the already highly regulated communications industry when Steve Jobs, working out of his garage, found a way to exploit the Pentagon’s DARPA, designed initially to allow linking of military researchers with university libraries. And the FCC has been unsuccessfully trying to play catch up ever since.

Back in 2005, when Michael Powell, as the FCC chair, announced the Four Freedoms for the Internet, they included the right for users to use lawful software and services that they wanted, the right to access their own choice of content, to use whatever devices they like, and get meaningful information about how their online service plan works. Period.

But a lot has changed as a result of free market innovation on the Information Highway in the last five years, which has “morphed into an 8-lane Interstate delivering not just information, but video, music, research, live business meetings, massive multi-player games, social interactions, and much more,” as noted by Doug Hornig of Casey’s Daily Dispatch.

Pushback is already beginning to build. Thirty senators wrote to FCC Chairman Julius Genachowski that the cost of his decision “will be measured in investments foregone, innovations stifled, and most importantly, jobs lost. With America’s economy in such a fragile state, the last thing the government needs to do is burden the private sector with more ill-advised regulatory red tape.” The letter reminded the chairman that Congress, and not the FCC, should determine what Internet regulation, if any, is appropriate. The unspoken warning to the FCC was that lawmakers in the 112th Congress might just overrule the regulation under the Congressional Review Act.

The biggest obstacle, however, to attempts to regulate the Internet, is the Internet itself. It has grown far beyond the ability of the FCC to rein it in. As the [Daily Bell](#) put it, “Given that today is the day for the FCC to announce its decision, we will state for the record that it probably does not matter. In terms of the ‘biggest picture,’ the Internet is what it is and it will take governments — and the controlling elites behind them — a very long time indeed to tame this technology.”

There is a plethora of on-ramps and other connections that have flourished. These are the enterprises of the market itself and these are the facilities that Internet regulation will likely not be able to damage. Or certainly not beyond repair. More will be built, often by adolescents. And the threat posed by the ‘Net to the power elite’s march towards one-world governance and the complete destruction of individual freedoms will continue to be felt.

As efforts to regulate are exposed by the Internet for what they really are, extensions of government power over individual choice, those very efforts will fail. Totalitarian flailings and statist self-



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justifications by irrelevant regulatory bodies such as the FCC will only serve to hasten their demise.

Photo: FCC Chairman Julius Genachowski



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