



Written by [Dennis Behrendt](#) on June 18, 2010

FCC Moves to Regulate the Internet

According to [CNSNews.com](#), by a “3-2 party-line vote on Thursday at the FCC,” the agency “began the formal process of reclassifying the Internet as a telecommunications service instead of an information service — it’s current classification.”

Currently, as an information service, the FCC can exercise only “ancillary” authority, which does not allow it to regulate the Internet directly. If the Internet is reclassified, the agency would gain greater regulatory control.



For the FCC, the reclassification effort has become necessary due to a setback in the courts. In 2007, subscribers to Comcast’s broadband service found that the company was blocking some Internet traffic related to peer-to-peer file sharing. Comcast throttled the access because it claimed that such network activity consumed too much bandwidth. Despite its lack of direct authority, the agency sought to control Comcast’s network management policy after two non-profit “advocacy” organizations — [Free Press](#) and [Public Knowledge](#) — filed a complaint.

Probably unbeknownst to Comcast, the company had fallen afoul of an organization with an animosity toward free enterprise, and thus to corporately controlled, privately owned assets. The organization Free Press was co-founded by University of Illinois professor [Robert W. McChesney](#). From 2000 to 2004, McChesney served as editor of the Marxist/socialist journal [Monthly Review](#), published in New York City. *Monthly Review* was founded in 1949 to speak “for socialism and against U.S. imperialism.”

This is no idle matter — McChesney views the media as a battleground in the socialist revolution. In a revised version of chapter seven of his book *The Problem of the Media: U.S. Communication Politics in the Twenty-First Century*, published online by *Monthly Review*, [he writes](#): “Progressives need to work on challenging the corporate domination of media as part of the broader struggle for social justice. If changing media is left until ‘after the revolution,’ there will be no revolution, not to mention fewer chances for social reform.”

A chance to “change the media” apparently existed in the case of Comcast’s management of its network access. But the case finally ended up in the courts, where it found its way to the federal D.C. Circuit Court of Appeals, which [ruled in April](#) that the FCC could not regulate Comcast’s network management policies. [The court found](#) that the FCC “has no express statutory authority” over an Internet service provider’s network management practices.”

That came as a blow to the FCC. In its [press release](#) announcing that the agency would begin to “seek best legal framework for broadband Internet access,” the agency complained that the “recent decision of the U.S. Court of Appeals for the D.C. Circuit cast doubt on prior understandings about the FCC’s ability to ensure fair competition.” FCC Chairman Julius Genachowski put it more bluntly. The Court’s findings, [he said in a statement](#), amounted to an “unwelcome decision” and “a curveball.” The setback was also viewed unfavorably by FCC Commissioner Michael Copps, “a self-described New Dealer,”



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according to McChesney who had already tangled with Comcast earlier in the decade when he “was the one vote against approving Comcast’s takeover of AT&T’s cable systems in 2002.” In other words, Copps was familiar with using the power of government to thwart free enterprise.

In this case, Copps views the matter as a threat to that power. In his [statement](#) on the FCC’s plan to reclassify the Internet, he complained that original classification had been made against his wishes. In 2002, he noted “over the strong dissents of Commissioner Adelstein and me, the Commission issued a Declaratory Ruling that moved cable modem services away from any real oversight by classifying them as unregulated ‘information’ services.”

Such obnoxious lack of regulation must be brought to an end, he says. Private enterprise, he argues, can’t be trusted. After all, “we see what price can be paid when critical industries operate with unfettered control and without reasonable and meaningful oversight.” Indeed, he continues, “look no further than the banking industry’s role in precipitating the recent financial meltdown or turn on your TV and watch what is taking place right now in the Gulf of Mexico.”

Never mind that neither of those situations actually support his argument, with the oil spill being purely an accident, and the economic meltdown actually attributable to government regulation of, and intervention, in the economy.

Facts, however, are optional. What really matters is the power of the FCC: “We need to reclaim our authority,” Copps concluded.

Still, CNSNews.com notes that the Telecommunications Act of 1996 says explicitly that “it is the policy of the United States ... to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.”

As to this, the FCC promises they can be trusted: “The FCC claims it will exercise ‘forbearance,’ a regulatory doctrine whereby the government promises not use its regulatory authority in most cases,” reports CNSNews.com.

This will be done through what Chairman Genachowski calls the Third Way approach, “developed as a response that rejects both the extreme of applying extensive legacy phone regulation to broadband, and also rejects the extreme of eliminating FCC oversight of broadband.”

In supposedly thus “restoring balance to the Force,” Genachowski promises a return to the “status quo light-touch framework that existed prior to the court case.”



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