

## Critical Gaps in FCC's Proposed Open Internet Regulations

Like the FCC's National Broadband Plan task force identified seven critical gaps in the path to the future of universal broadband, the FCC should resolve six identified "critical gaps" in the FCC's proposed Open Internet regulations before moving forward to regulate the Internet for the first time -- by dictating Internet access pricing, terms and conditions or what services which businesses can and cannot offer on the Internet.

### ***Credibility Gap: FCC isn't preserving, but changing the Internet, regulating it for first time.***

- Are there no real problems for the FCC to address, other than "preserving" the Internet status quo?
- How does severely restricting broadband supply or investment incentives increase consumer choice?
- How can the FCC regulate to opportunity/prosperity? Can FCC regulatory red tape spur innovation?
- With no experience, how can the FCC design, deploy and manage networks better than companies?

### ***Justification Gap: FCC proposes a solution without presenting any record of a real problem.***

- Two isolated and quickly-resolved mistakes in 5 years don't warrant sweeping Internet regulations.
- The FCC presents no evidence/case of market failure to justify preemptive permanent business bans.
- There's zero explanation of why/how FCC's proposed regs would be better than current policy.
- All cost-no benefit change; big new costs, risks, regulation for no upside, only status quo.

### ***Legitimacy Gap: FCC lacks the congressional/constitutional authority to regulate the Internet.***

- FCC's over-reaching narrow ancillary authority by granting itself near limitless virtual jurisdiction.
- The FCC's first-ever absolute non-discrimination standard has never been authorized by Congress.
- FCC's arbitrarily reversing precedent and recent official FCC assessments of sufficient competition.
- It's an unconstitutional ban of companies' free speech and property-takings without compensation.

### ***Neutrality Gap: FCC puts Google/eBay/Amazon's interests ahead of consumers' interests.***

- FCC endorses price discrimination for consumers, but opposes price discrimination for companies.
- FCC supports de facto structural separation of distribution/content for broadband, but not for apps.
- Users would no longer be entitled to competition among application or content providers.
- FCC regs would foster application monopolization by blocking ISP entry into cloud computing.

### ***Political Gap: FCC's proposal abandons seventeen years of strong bipartisan Internet success.***

- Reverses Clinton Administration policy to privatize Internet and keep ecommerce free of regulation.
- Overturns Clinton's Kennard-FCC precedent to not apply open access regulations to broadband.
- Upends multiple 5-0 FCC broadband decisions to not price regulate broadband services.
- FCC's proposed regulations of the Net do not have majority support in either the House or Senate.

### ***Responsibility Gap: FCC is ignoring obvious risks, costs, and unintended consequences.***

- FCC's risking Internet outages by prioritizing goal of no edge limits over core network reliability.
- FCC's gambling unnecessarily with one of the only healthy and stable sectors of the economy.
- FCC's tampering with a finely-tuned engine of economic growth, job creation and competitiveness.
- FCC's introducing poorly understood systemic risk into an essential well-functioning ecosystem.