

## The Harms of a Potential New FCC De-Competition Policy

*Proposed FCC Open Internet Regs and/or Title II Reclassification Would Supplant Competition Policy*

**FCC mandated net neutrality & Title II reclassification would be a new FCC de-competition policy:**

- *Supplanting* market-based competition policy with outdated common carrier regulation policy;
- *Shifting* the FCC's primary purpose from promoting competition to promoting openness;
- *Replacing* the core mechanism for advancing consumer welfare from a voluntary, bottom-up market-based competition system, to a coerced, top-down, centralized FCC regulation system; &
- *Removing* users from being in charge of the Internet to FCC asserting control over the Internet.

**A new FCC de-competition policy, unauthorized by Congress, would effectively:**

- *Devolve* existing communications law from its purpose in the 1996 Telecom Act “to promote competition and reduce regulation” to promote regulation and reduce competition;
- *Abandon* existing Congressional Internet policy in law, which is “to preserve the...competitive free-market...Internet...unfettered by Federal or State regulation;
- *Distort* the notion of an “open” market to mean government-driven, not competition-driven; and
- *Install* the introduced, but never marked up or passed, Markey-Eshoo bill (HR 3458) as policy.

**The harms of a potential new FCC “de-competition policy” are:**

- *Missing* the point of competition and its unique benefits:
  - Best at *anticipating* consumers’ ever-evolving and diverse demands -- in real time;
  - Best at *responding* to demand with a diverse offering of consumer choices and platforms;
  - Best at *incenting* real innovation through opportunity for reward and the discipline of risk;
  - Best at *delivering* sustainable economic growth and good job creation broadly; and
  - Best at *generating* sustainable, long-term, *multiple*-technology infrastructure investment.
- *Over-reaching* regulatory hubris:
  - *Ignoring* the Federal fiscal reality that the FCC must rely on robust private investment;
  - *Positing* without evidence, the FCC’s visible hand can outperform market’s invisible hand;
  - *Deeming* the lobbying contest for specially-granted regulatory prices, terms & conditions to be “competition,” but facilities-based, multi-technology competition for consumers’ business based on price, value, innovation, and differentiation – to not be competition; and
  - *Over-reaching* with big regulatory changes without authority, justification, or consensus.
- *Undermining* the National Broadband Plan’s consensus with de-competition policy’s major *strife*.
- *Regressing* backwards to a 19<sup>th</sup> century regulatory paradigm designed for a single technology monopoly (railroads), away from a 21<sup>st</sup> century competition paradigm for diverse technologies.
- *Halting* progress by changing the rules and moving the goalposts *mid-game*, requiring a complete -- regulatory, legal, policy, business, investment, competition, and innovation -- *do-over*.
- *Supplanting* technology-neutral policy with *industrial policy* favoring Google, eBay & Amazon.
- *Ignoring* the FCC’s well-known regulatory/legal failures from a decade ago and the consequent bubble speculation and crash they helped cause (CLEC & fiber bankruptcies, dotcom bubble) with no lessons-learned or analysis why new de-competition policy won’t result in *déjà-vu*.