

The TarMac Vaporware Gazette

The FCC Just Killed Net Neutrality, But Legal Challenges Are Already Coming New York attorney general plans to sue

by KANYAKRIT VONGKIATKAJORN | motherjones.com | December 14, 2017

The Federal Communications Commission voted 3-2 to repeal net neutrality Thursday, in a long-contested debate over whether internet service providers should treat all online content the same, or be allowed to give preference to certain websites or companies.

The commission voted along party lines to repeal the Obama-era regulation, with three Republicans voting for repeal and two Democrats dissenting. "What is the FCC doing today? We are restoring the light-touch framework that has governed the internet for most of its existence," said Ajit Pai, chair of the FCC. "The sky is not falling, consumers will remain protected and the internet will continue to thrive."

Supporters of net neutrality say that repealing the rule will lead to higher costs for consumers and give ISPs freedom to charge consumers more for accessing certain sites, or block consumers from accessing certain sites altogether. ISPs would also be able to charge companies more to ensure that their websites get the same speed as others—a move that would hurt smaller companies with fewer resources to compete with larger corporations.

During the hearing, the Republican commissioners argued that repealing net neutrality would end an era of overregulation from the government, and that it would restore internet freedoms and increase innovation. "This will not break the internet," said Commissioner Michael O'Rielly, who supported the repeal.

Two commissioners strongly disagreed. "I dissent, because I am among the millions who is outraged," Commissioner Mignon Clyburn said in a statement, arguing that the decision hurts businesses and consumers. The decision "puts the Federal Communications Commission on the wrong side of history," said Commissioner Jessica Rosenworcel, "the wrong side of the law, and the wrong side of the American public."

New York Attorney General Eric Schneiderman has already announced he would sue the FCC over the decision, tweeting, "New Yorkers and all Americans deserve a free and open internet."

<http://www.motherjones.com/politics/2017/12/trumps-fcc-just-killed-net-neutrality-but-the-first-legal-challenges-are-already-coming/#>

The Repeal Of Net Neutrality Is A Bad Thing (But Not For The Reasons You Think)

by Alan Wolk | forbes.com | November 30, 2017

The reason FCC Chairman Ajit Pai's decision to roll back Net Neutrality decision is the wrong one is not because the lack of net neutrality is, *prima facie*, a bad thing. Rather, it's because we don't have anything close to free market conditions in the U.S. when it comes to broadband.

In 55% of the U.S., there is only one major broadband provider and in most of the remaining 45%, there are two. That means that if that sole provider chooses to be the proverbial "bad actor," there is no "free market" to correct their actions. If you're a consumer, you have no other options.

What's more, that situation is unlikely to change anytime soon, because installing a broadband cable network is outrageously expensive. Verizon spent over \$20 billion on FIOS and pretty much only managed to wire the upscale suburbs of the Northeast and Los Angeles. There's 5G mobile broadband, which is looming on the horizon (Verizon just announced today that they're going to start selling it in areas not covered by FIOS) and it should provide a challenge for wired broadband and allow for the entry of a number of new providers into the market, but for now, we're stuck with the current Soviet-style system rather than a free market one.

Zero Rating: The Other Side Of Net Neutrality

The reason I say the lack of net neutrality is not *prima facie* a bad thing, is because in a free market system, a company could potentially charge certain providers for a fast lane and then pass some of the money they collected on to consumers in the form of lower rates. Consumers would have to be okay with the sites that weren't paying being slower, and if they weren't, there would be other providers who'd abide by net neutrality and allow all sites equal access and equal speeds. In other words, consumers would have options.

That said, given the internet's reaction to Pai's decision, it's highly unlikely that any of the major MVPDs will try and subvert net neutrality. In fact, Comcast and Charter, the two largest cable companies, have pledged to uphold net neutrality, Ajit Pai be damned.

What they have not promised to do, and what many content providers fear is far more insidious, is end the practice of zero rating. Zero rating means that content the MVPD provides (e.g., their own pay TV services or programming they own outright) does not count towards any data caps the user may have.

That sounds a whole lot less insidious than shutting down cute fluffy internet startups who won't pay to be in a fast lane, but if you're TV network or vMVPD, it could have the same effect.

MVPDs vs Silicon Valley

One argument that's been made in support of the end of net neutrality is that it gives the MVPDs (who control broadband access) some leverage over the Google-Amazon-Facebook triumvirate (who control everything else.)

While there's some validity to that—no one really wants Google to be able to start their user tracking journey at the pipe level—it's not really clear how removing net neutrality might hurt Google, Amazon or Facebook. Given how popular they are, no one who wants to turn a profit is going to remove them from their service for not paying up, and if anything, fast lane fees would effectively quash any

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macworld.com | December 12, 2017

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Track Santa on Christmas Eve!

If you're anticipating Santa's visit, you'll want to visit the "NORAD tracks Santa" web site. For many years, NORAD has kept track of Santa as he gets ready for Christmas and then as he travels around the world on Christmas eve. The site is now live and features holiday games and activities that change daily. On 24 Dec, the Web site will stream videos, captured by NORAD Santa Cams, from cities along Santa's journey.

At midnight MST, 0200 EST, visitors can watch Santa prepare his sleigh, check his list, and get ready for his journey. As soon as Santa takes off from the North Pole, children can track him with up-to-the-minute Google Maps and Google Earth reports. <http://www.noradsanta.org>

The *TarMac Vaporware Gazette*, named in honor of past president Jerry Rowe, is published monthly. Send kudos, complaints, and article ideas to Cindy Huffman, editor.



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Net Neutrality, cont.

potential competitors. About all you can say for the argument is that it potentially ensures that the MVPDs are able to keep some skin in the game since they still control the internet pipes.

There Ought To Be A Law

One of the problems with the FCC and other regulatory agencies is that their roles are not very clearly defined—there's nothing that clearly states exactly what they can or can't do, especially in terms of enforcement.

The FCC has tended to see its role as something of a higher calling—it is the governing body for all media, the Commissioner of Media if you will, to use a sports analogy, It sees its role as being the arm of the Federal government that sets the guidelines and standards that keep the media industry running smoothly and fairly.

Other agencies, such as the FTC, see their roles as being more akin to that of an umpire or referee: if there's a dispute between two parties, they'll make a call, but they see it as Congress's job to set high-level policy—not theirs.

This is relevant because the legal argument over net neutrality boils down to which of two pre-internet statutes the rules around net neutrality should be based on, and also on Ajit Pai's belief that since no one is currently claiming to have been hurt by the lack of net neutrality laws, it's not the FCC's place to impose said laws, as that only creates unnecessary regulation.

If and when someone's business is hurt due to the lack of net neutrality, Pai reasons, it would become a commerce question and likely fall under the jurisdiction of the FTC, who would rule on the specific issue at hand rather than on the validity of net neutrality overall.

Waiting On Congress

What really needs to happen is for Congress to put some sort of rules regulating the internet on the books. That's not likely to happen though for several reasons: few members of Congress actually understand technology all that well, let alone the internet (being really adept at tweeting doesn't count) and, more importantly, the internet is changing so rapidly and Congress moves so slowly, that a law passed in 2018 would likely be out of date by the time it went into effect.

The Next 36 Months

The next two or three years will be critical in terms of how net neutrality plays out. As I mentioned earlier, it's highly unlikely there will be any blatant attempts to undermine it because the MVPDs are finally realizing that there are significant financial benefits to not being the most hated companies in America, and as such, they're not going to do anything that would jeopardize their newly cuddly images.

Zero rating, however, is another story: that's likely to happen soon, as the companies who provide broadband access are all launching their own vMVPDs and removing those vMVPDs from any data caps certainly gives them a major leg up as part of a double-play broadband-plus-television package.

Despite all the ink and angry Facebook posts, net neutrality is only likely to be an issue for the next 24 to 36 months. That's about when we'll see large scale adoption of 5G broadband, which should effectively end monopoly conditions in the U.S., giving us the sort of free market conditions Commissioner Pai is counting on.

Full article at <https://www.forbes.com/sites/alanwalk/2017/11/30/the-repeal-of-net-neutrality-is-a-bad-thing-but-not-for-the-reasons-you-think/#7964376565be>