



Consumer Federation of America

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**OPEN INTERNET ORDER TAKES THE CORRECT APPROACH TO
NETWORK NEUTRALITY, UNIVERSAL SERVICE, CONSUMER
PROTECTION AND COMPETITION**

CFA Declares: The FCC builds on 30 years of successful, light-handed regulation

Washington D.C. -- Throughout this proceeding the Consumer Federation of America has urged the Federal Communications Commission (FCC) to take a pragmatic approach to the Open Internet Order, maximizing the probability that the principle of network neutrality would be preserved with the minimum disruption to the virtuous cycle of innovation and investment, while laying the foundation to address other important principles of the Communications Act, including universal service, consumer protection and competition. In spite of extreme pressure from the right and the left, from network operators and edge companies, the FCC is clearly trying to chart a responsible path toward those goals.

The initial decision to classify broadband as an information service was horribly flawed, not only because the assumption that the FCC would have the ability to ensure network neutrality under the doctrine of ancillary authority proved to be incorrect, but also because it had failed to consider how profoundly the decision would damage the Commission's ability to pursue the other goals of the Act. From what we know about the rules the Chairman has circulated, the Commission has endeavored to avoid that mistake.

Our comments in this proceeding have shown that the Internet succeeded in the dial-up era because the FCC adopted rules that provided nondiscriminatory access to the digital communications network, but stayed out of day-to-day regulation, which empowered edge companies and consumers to innovate. The proposed rules are an extension of that successful light-handed approach to the more complex age of broadband.

As we understand it, the rules embody the following approaches:

- Heavy reliance on section 706 to implement network neutrality, consistent with the recent rulings of the D.C. Court of Appeals,
- Selective and targeted use of Title II to control activities that are severely harmful to the virtuous cycle of Internet innovation and investment, but which cannot be addressed with Section 706 power,

- Forbearance from much of Title II to authority, with crucial sections dealing with universal service, consumer protection and competition open to further development.

The less the FCC has to use its power, the better, but the behavior of the network operators over the decade since broadband was classified as an information service has made it clear the FCC must have the authority to prevent abusive discriminatory and anticompetitive practices and promote universal service.

It is our hope that the edge companies and the network operators recognize that the FCC has the authority to promote the most important goals of the Act and embrace this decision as an opportunity to work out their differences to the greatest extent possible in private negotiations that lead to commercially reasonable outcomes.

The Consumer Federation of America is a nonprofit association of more than 250 consumer groups that was established in 1968 to advance the consumer interest through research, advocacy, and education.