

The Free State Foundation

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FSF Urges Flexibility and Core Market-Oriented Principles for Broadband Plan

May Says Focus on Unserved Areas, Favor Private Providers, and Don't Impose Net Neutrality Regs

POTOMAC, MD – In comments submitted today to the Federal Communications Commission, Randolph May, President of the Free State Foundation, urged the agency to ensure that the national broadband plan on which it is soliciting comment has built-in flexibility and incorporates core free market-oriented principles.

With respect to flexibility May stated:

"[T]he plan must contain within its parameters sufficient flexibility to allow policymakers and broadband providers to respond to the rapid pace of technological and marketplace changes. The Soviet Union was known for adopting elaborate national plans of the five-year variety. The plans set rigid goals, production quotas, input costs, output prices, and the like. To put it nicely, things did not turn out well for the Soviet economy under such rigid state planning notions. So built-in flexibility that preserves considerable private sector discretion for adaptation and experimentation is essential."

May stated the plan also must be grounded in certain fundamental free market-oriented principles:

"These principles should dictate that federal support for broadband should be targeted predominantly to providing access to presently unserved areas and to increasing, if this can be accomplished efficiently and effectively, broadband usage; any federal support should favor private sector companies over government providers; competitive bidding procedures should be used to the extent possible to distribute any federal support; and the government should not adopt any further mandates requiring net neutrality or open access because these regulations have the effect of deterring investment and chilling innovation. Ultimately, the costs imposed by such regulations – in terms of lost opportunity for the realization of further broadband investment, innovation, and other consumer gains – outweigh any perceived benefits."

As for the appropriate regulatory framework, May urged that net neutrality mandates or other forms of regulatory control be rejected:

"Although some in the U.S. continue to 'talk broadband down,' seemingly for the purpose of advancing a pro-regulatory policy agenda that tilts heavily in the direction of more government regulatory control, if not ownership, of broadband networks¹ the reality is that the U.S. has made remarkable progress in making available reasonably-priced, high-speed broadband on a nearly ubiquitous basis. The broadband glass is much more than half-full than half-empty. The remarkable progress has been achieved under a generally deregulatory broadband environment that has encouraged massive private sector investment."

Randolph May has over thirty years of experience in communications law and policy, including service as Associate General Counsel of the FCC. May is the co-editor of two books on communications policy, *Net Neutrality or Net Neutering: Should Broadband Internet Services Be Regulated* and *Communications Deregulation and FCC Reform*, and the editor of the forthcoming book, *New Directions in Communications Policy*. He is the author of over a 125 scholarly law review articles, essays, and commentaries on communications law and policy topics. He is a past Chair of the American Bar Association's Section of Administrative Law and Regulatory Affairs, a member of the ABA House of Delegates, and a past member of the Administrative Conference of the United States.

A PDF version of the comments is here.

The Free State Foundation is an independent nonprofit, Section 501(c)(3), free market-oriented think tank.

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¹ I first began to write about "The Talking Broadband Down Crowd" on April 25, 2007, now more than two years ago. See this blog, available at: <http://freestatefoundation.blogspot.com/2007/04/talking-broadband-down-crowd.html> . There I said: "Quite simply, those here in the U.S. who continue to talk down this country's broadband achievements clearly have a policy agenda in mind. The agenda is to impose net neutrality (read: common carrier regulation) on broadband providers on the perverse theory that somehow consumers will take more broadband if all the providers are required to offer exactly the same service--just as in the good ol' days of Ma Bell."