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Defining Broadband Progress Down

by

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On January 29, led by Chairman Tom Wheeler, the Federal Communications Commission's three Democrats voted to redefine "broadband" service by increasing the minimum bandwidth requirement to 25 megabits per second (Mbps) for downloading and 3 Mbps for uploading. This is a 250% increase from the 10 Mbps definition for downloads that Mr. Wheeler proposed just this past August. The current benchmark is 4 Mbps.

Why the rapid "redefinition" of what constitutes broadband service? It's simple, really.

By radically increasing the broadband standard in one swift stroke, Mr. Wheeler narrows the confines of the broadband market for purposes of assessing its progress and competitiveness. The problem with this Houdini-like administrative sleight of hand is that it is not grounded in marketplace realities dictated by actual consumer demand and willingness to pay. Rather, the new definition is conjured up in the imaginations of those who wish to exert more government control over broadband Internet providers.

The late Senator Pat Moynihan coined the memorable phrase, “defining deviancy down.” What the FCC is doing is “defining broadband progress down.”

The new definition was reached in conjunction with a periodic determination the Commission is required to make as to whether broadband is “being deployed to all Americans in a reasonable and timely fashion.” If the Commission makes a negative finding, the Communications Act arguably authorizes the agency to take certain actions to accelerate deployment.

Given the remarkable broadband progress in the United States in the last fifteen years, it is not surprising that until a few years ago the FCC regularly determined that broadband was being deployed on a reasonable and timely basis. After all, Internet service providers have invested over $1.3 trillion in building out broadband networks, and, as of 2013, there were over 300 million broadband subscriptions.

But, then, the Obama Administration’s FCC decided to try to justify a new pro-regulatory agenda by gaming the broadband reports. The game’s objective is to portray broadband deployment in a negative light.

Mr. Wheeler claims the new 25 Mbps threshold has become “table stakes” for 21st Century communications and that “consumers are flocking to 25/3 when they have the opportunity.” On this score, he points out that 29% of consumer with access to 25/3 service have chosen to take it.

It should be obvious what is wrong with this picture: 71% of consumers with access to 25 Mbps presently choose not to subscribe. And while Mr. Wheeler recites the fact that 17% of U.S. households don’t have access to 25 Mbps service, he’s making the point, albeit without ever acknowledging it, that 83% of American households do have such access.

This demonstrates that, at present, the vast majority of Americans do not think they need 25 Mbps of bandwidth, or at least don’t think they need it enough to pay for it. This should not be surprising. As Republican Commissioner Ajit Pai pointed out in dissent, “only this year has a majority of consumers with access actually adopted speeds of 10 Mbps or higher.” The FCC itself acknowledged in an August 2014 report that at 10 Mbps, one family member could stream a super HD movie, another could make an HD video call, and yet another could deliver files to and retrieve them from the cloud, all while everyone in the house sends emails, gets alerts, and checks the weather.

Despite the above facts, Mr. Wheeler’s Democrat colleague, Jessica Rosenworcel, claims the new broadband standard should even be higher. She says: “It’s time to dream big.” For her, this means setting the new threshold at 100 Mbps.

I don’t oppose dreaming big. Indeed, I want to see the progress continue that has characterized the American broadband experience. There is a difference, however, between “dreaming big” and sound policymaking. Sound policymaking is not built on dreams.

What you won't find in the statements of Chairman Wheeler or Commissioner Rosenworcel is any discussion of the costs incurred by broadband providers in continually expanding their networks to meet ever-evolving consumer demand for higher-bandwidth services and how such costs must be recovered, ultimately, in the prices charged consumers. As mentioned above, Internet providers already have invested $1.3 trillion per year on broadband infrastructure, and, by all accounts, are continuing to invest at an annual rate of $60-70 billion.

Rather than focusing on actions that will encourage continued high rates of investment, the Commission majority appears determined to do just the opposite. It is poised, in the name of mandating "net neutrality," to impose burdensome public utility-type regulations on Internet providers – reversing the deregulatory policy adopted in the early 2000s which has led to a decade of sustained progress.

The redefinition of broadband is part of an attempt to justify the adoption of more regulation of Internet providers. The Commission wants to accomplish this goal by "defining broadband progress down."

Think about whether this makes sense this evening when your family, all at the same time, is streaming a super high-definition movie from Netflix, making a HD video call, saving files to and from the cloud, and retrieving and sending emails.

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