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MEDIA ADVISORY

December 14, 2017

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FSF's Randolph May Applauds the FCC's Repeal of Internet Provider Regulations

Free State Foundation President Randolph May issued the following statement in response to the Federal Communications Commission's action today repealing the public utility-like regulatory regime imposed on Internet service providers in 2015 by the Obama Administration FCC:

"In all the overheated rhetoric regarding today's FCC action, it will be easy, or tempting for those who wish to do so, to overlook certain central truths.

First, Congress has never granted the FCC the authority to impose public utility regulation on Internet service providers. I'm confident that the courts -- and the Supreme Court if necessary -- will affirm today's Commission action.

Second, absent a market failure, history -- along with the academic literature -- shows that public utility regulation suppresses innovation and investment. Consumers suffer when Internet providers, operating in today's technologically dynamic marketplace environment, are discouraged from innovating new products and investing in new facilities.

Third, in conjunction with the restoration of the FTC's authority to police ISPs' practices, consumers will be protected by the FCC's action requiring that ISPs adhere to transparency rules requiring the disclosure of their practices relating to blocking, throttling, or prioritizing Internet traffic. The FCC will enforce compliance with its transparency rules.

Fourth, if Congress wants to grant the FCC authority to regulate Internet providers' practices, then it certainly should consider doing so. In that instance, it should require that the agency find convincing evidence of market failure and consumer harm before imposing sanctions on Internet providers."

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Randolph J. May, President of the Free State Foundation, is a former FCC Associate General Counsel and a former Chairman of the American Bar Association's Section of Administrative Law and Regulatory Practice. Mr. May is a past Public Member and current Senior Fellow of the Administrative Conference of the United States, and a Fellow at the National Academy of Public Administration.

Mr. May is a nationally recognized expert in communications law, Internet law and policy, and administrative law and regulatory practice. He is the author of more than 200 scholarly articles and essays on communications law and policy, administrative law, and constitutional law. Most recently, Mr. May is the co-author, with FSF Senior Fellow Seth Cooper, of the recently released [#CommActUpdate - A Communications Law Fit for the Digital Age](#) as well as [The Constitutional Foundations of Intellectual Property](#), and is the editor of the book, [Communications Law and Policy in the Digital Age: The Next Five Years](#). He is the author of *A Call for a Radical New Communications Policy: Proposals for Free Market Reform*. And he is the editor of the book, *New Directions in Communications Policy* and co-editor of other two books on communications law and policy: *Net Neutrality or Net Neutering: Should Broadband Internet Services Be Regulated And Communications Deregulation and FCC Reform*.

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The Free State Foundation's Comments in the *Restoring Internet Freedom Order* are [here](#). FSF's Reply Comments are [here](#).

FSF President Randolph May's blog, "A Comment on the FCC Net Neutrality Comments," is [here](#).

FSF Senior Fellow Seth Cooper's legal analysis explaining why the FCC lacks authority to compel Internet service providers to be regulated under a public utility regime is [here](#).

FSF Senior Fellow Theodore Bolema's Perspectives explaining why an absolute ban on paid prioritization deters capital investment is [here](#).

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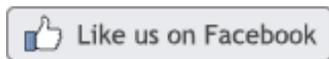
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