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Sean Lengell

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## EDITORIAL: Wave goodbye to Internet freedom

### FCC crosses the Rubicon into online regulation

By THE WASHINGTON TIMES - The Washington Times

7:02 p.m., Thursday, December 2, 2010

The [Federal Communications Commission \(FCC\)](#) is poised to add the Internet to its portfolio of regulated industries. The agency's chairman, [Julius Genachowski](#), announced Wednesday that he circulated draft rules he says will "preserve the freedom and openness of the Internet." No statement could better reflect the gulf between the rhetoric and the reality of [Obama administration](#) policies.



ASSOCIATED PRESS  
FCC Chairman Julius Genachowski outlined a plan to expand the federal government's power over the Internet.

With a straight face, [Mr. Genachowski](#) suggested that government red tape will increase the "freedom" of online services that have flourished because bureaucratic busybodies have been blocked from tinkering with the Web. Ordinarily, it would be appropriate at this point to supply an example from the proposed regulations illustrating the problem. [Mr. Genachowski's](#) draft document has over 550 footnotes and is stamped "non-public, for internal use only" to ensure nobody outside the agency sees it until the rules are approved in a scheduled Dec. 21 vote. So much for "openness."

The issue of "net neutrality" is nothing new, but the increasing popularity of online movie streaming services like Netflix have highlighted an area of potential concern. When someone watches a film over the Internet, especially in high definition, the maximum available capacity of the user's connection is used. Think, for example, of the problems that would arise at the water works if everyone decided to turn on their faucets and take a shower simultaneously. Internet providers are beginning to see the same strain on their networks.

In some cases, heavy use of this sort slows the Web experience for everyone sharing the same lines. That has prompted some cable Internet providers to consider either charging the heavy users more or limiting access to the "problematic" services. Of course, if cinema buffs find themselves cut off from their favorite service, they're going to be mad. If companies don't act, they're just as likely to find irate customers who don't want their experience bogged down by others.

It's not clear why the [FCC](#) thinks it needs to intervene in a situation with obvious market solutions. Companies that impose draconian tolls or block services will lose customers. Existing laws already offer a number of protections against anti-competitive behavior, but it's not clear under

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what law Mr. Genachowski thinks he can stick his nose into the businesses that comprise the Internet. The FCC regulates broadcast television and radio because the government granted each station exclusive access to a slice of the airwaves. Likewise when Ma Bell accepted a monopoly deal from Uncle Sam, it came with regulatory strings attached.

No such rationale applies online, especially because bipartisan majorities in Congress have insisted on maintaining a hands-off policy. A federal appeals court confirmed this in April by striking down the FCC's last attempt in this arena. "That was sort of like the quarterback being sacked for a 20-yard loss," FCC Commissioner Robert M. McDowell told The Washington Times. "And now the team is about to run the exact same play. ... In order for the FCC to do this, it needs for Congress to give it explicit statutory authority to do so."

Freedom and openness should continue to be the governing principles of the Internet. That's why Mr. Genachowski's proposal should be rejected and Congress should make it even more clear that the FCC should stop trying to expand its regulatory empire.

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COMMENTS

JoeKirkup says:  
4 hours, 12 minutes ago

Just like "The Employee Free Choice Act" would let Chicago union thugs tell you for whom to vote, "Net Neutrality" will essentially let the same scumbags into you computer. A more honest title would be "The Bury Drudge Report in Costs and Red Tape Act."  
Joe Kirkup

GrannyRob says:  
4 hours, 19 minutes ago

Government under control of democrats is government in the communist style.

Timothy says:  
4 hours, 42 minutes ago

How about getting rid of the FCC? It's always been a threat to free speech. Its rationale is suspect and its existence is unconstitutional. Please spare me the commerce clause excuse. The Founders intended that to guarantee free trade among the States and not provide the Feds an excuse to do whatever they wanted.

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