

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Preserving the Open Internet)	GN Docket No. 09-191
)	
Broadband Industry Practices)	WC Docket No. 07-52

Reply Comments of the Internet Freedom Coalition

The following comments are submitted by the undersigned members of the Internet Freedom Coalition. They are submitted in reply to comments filed by proponents of Network Neutrality regulations, and are attributable only to the signatories.

The Burden of Proof Should be Placed on Those Petitioning for Regulations

Before it seriously considers regulating, the Commission must place the burden of proof on those arguing for the regulations, and not on those arguing for restraint. If a clear case cannot be made that a problem actually exists, and that the proposed regulations are necessary and beneficial to address that existing problem, the Commission should show restraint.

Free Press offers an interesting argument in the form of a litany of “Doomsday scenarios” offered by broadband providers, claiming that no such scenarios have occurred as a result of the Commission’s neutrality guidelines.

“Appendix A: The Doomsday Predictions Made by Internet Service Providers Concerning Net Neutrality Which Have Failed to Materialize In order to highlight the reality that many of the doomsday predictions that will likely be made by open Internet opponents in this proceeding are nothing more than unfounded scare tactics, we have compiled for the Commission a sampling of similar such doomsday predictions that failed to materialize.” (p.159)

If Free Press considers Doomsday predictions failing to materialize relevant, surely the Commission should take notice of the fact that none of Free Press’s “Doomsday predictions” *absent* regulations have come true either.

Free Press proudly points out that “public interest groups ... have been advocating for net neutrality rules for more than a decade.” (p.157) And Free Press’s web site offers the following warning:

“The consequences of a world without Net Neutrality would be devastating. Innovation would be stifled, competition limited, and access to information restricted. Consumer choice and the free market would be sacrificed to the interests of a few corporations.”
[http://www.freepress.net/policy/internet/net_neutrality]

The failure of Free Press’s own “doomsday predictions” to materialize over the entire decade it and other “public interest” groups have been making such predictions would also seem to be relevant to the Commission. By Free Press’s own standards, their dire predictions as to the “devastating” consequences of a world without network neutrality regulations should be viewed as “nothing more than unfounded scare tactics.” Broadband Internet is not presently subject to any nondiscrimination rule, so it is Free Press that is arguing for a major change in policy and that therefore should have the burden of proving the purported harms in the presently unregulated market.

Regulation should only be promulgated based on a clearly definable market failure or harm. Free Press has demonstrated no such market failure or harm, and continues to posit mere hypotheticals.

Network Neutrality Regulations Would Harm Investment and Advancement of Internet Services, and Petitioners Have Offered no Evidence to the Contrary.

Especially since the Commission has a stated goal of increasing broadband buildout and adoption, the dangers of network neutrality regulations diminishing investment in broadband expansion should be at the top of the Commission’s concerns.

By any account, it was the deregulation of telecommunications and information services that led to the massive and transformative increase in investments into those deregulated sectors.

Hundreds of billions of private dollars have been invested in broadband over the past decade, resulting in higher speeds, greater usage, more competition, and lower prices per bit of information transferred.

Regulating providers poses the very real possibility of delaying, discouraging, or even halting those investments.

Private investment in broadband provision now amounts to \$60 billion per year. Even a modest 15 percent negative effect on that rate of investment would result in \$9 billion of lost investments *per year* – an amount exceeding the federal government’s one-time, \$7.2 billion broadband stimulus appropriation now being administered by the NTIA and RUS.

Network neutrality regulations are, according to advocates, expressly aimed at limiting the options of firms operating within an investor-owned, wealth-creation model of broadband provision. To the extent that regulations diminish the potential return on investment for necessary broadband infrastructure development, the robust investments being made in broadband development will be slowed, or even halted. Regulation can limit options not only through direct prohibitions, but also through establishing a petition-based application process by which approval must be sought and obtained before undertaking new ventures or practices. Even if such ventures and practices are ultimately approved by government, the uncertainty, lost time, and the exposure of sensitive business plans to competitors represent real costs to potential investors.

There are those who argue that government can and should replace private investment in broadband provision. We argue that with trillion-dollar deficits projected as far as the eye can see, it is not reasonable to expect the federal government to pile tens of billions of dollars a year to fund infrastructure upgrades.

The federal government simply does not have the money to match the massive private investment in broadband networks.

For this reason alone, the Commission should not act in such a way as to limit investments in broadband infrastructure at the very moment it is sending Congress a National Broadband Strategy ostensibly aimed at increasing, not decreasing, broadband deployment and adoption.

Willing Investors and Willing Purchasers Have Funded the Information Revolution That Has Added to Americans' Freedom, Knowledge, and Economic Well-Being

For a free market to function efficiently, consumers must have the freedom to choose providers who best suit their wants and needs. Likewise, investors who risk losses must also be given the freedom to seek a return on those investments. Competition between providers offers choices to consumers while forcing efficiencies and innovation on firms seeking to grow in size and profitability. Without consumers freely choosing their service, providers will fail in the marketplace.

In addition to winning and retaining customers, firms must win and retain investors. And in order to attract those investors, firms must seek a return on investment.

Whereas Free Press may describe broadband providers' need to seek a return on investment as merely their "desire to gouge their customers using Internet overcharging billing schemes" (p.4), providers have a legitimate obligation to shareholders to seek a return on investment just as they have a legitimate obligation to attract and retain customers. Experimentation with different business models is potentially pro-consumer and, absent demonstrated harms, such experimentation should be encouraged, not arbitrarily prohibited.

Moreover, the consumers who have benefitted from the telecommunications revolution seem not to agree with Free Press's zero-sum-game outlook that if a producer gains, a consumer must

therefore lose. American Internet users' enthusiastic participation in all aspects of the emerging wireline and wireless Internet is a story of political and commercial freedom, with benefits going to all participants.

Americans are taking advantage of nearly every upgrade and new device available. They do not see the breathtaking advances in the technology available to them as a form of abuse by Internet providers who are attempting to "gouge" them and "violate neutrality." Instead, Americans tend to see the obvious – that they benefit from and enjoy the technologies that are increasingly available to them from a wide range of providers.

Here we must briefly restate evidence – not theory, but *evidence* – of the benefits of an unregulated Internet accrued over the same decade Free Press has been predicting disaster if the government did not promulgate network neutrality regulation:

- Number of e-mails sent per day in 2000: 12 billion
- Number of e-mails sent per day in 2009: 247 billion

- Revenues from mobile data services in the first half of 2000: \$105 million
- Revenues from mobile data services in the first half of 2009: \$19.5 billion

- Number of text messages sent in the U.S. per day in June 2000: 400,000
- Number of text messages sent in the U.S. per day in June 2009: 4.5 billion

- Number of pages indexed by Google in 2000: 1 billion
- Number of pages indexed by Google in 2008: 1 trillion

- Amount of hard-disk space \$300 could buy in 2000: 20 to 30 gigabytes
- Amount of hard-disk space \$300 could buy in 2009: 2,000 gigabytes (2 terabytes)
Oliver J. Chiang, Forbes, "The Decade In Data: Our way of life has increasingly moved into bits and bytes." December 28, 2009.
<http://www.forbes.com/2009/12/27/broadband-text-messages-technology-cio-network-data.html>

During this decade, can Free Press cite a commensurate growth in "violating neutrality," "gouging customers," or any market failure or abuse? Has Free Press refuted these advances? The Commission should note well that Free Press spent the past ten years predicting that crises and disasters will result from a free, unregulated Internet as the mountains of evidence have been piling up on the other side of the debate.

The Commission Cannot Regulate Its Way to More and Better Internet Connections.

The Commission should bear in mind that while regulations may forbid certain activities, regulations are not in and of themselves creative solutions to problems requiring positive action.

Regulations cannot make the Internet faster, more efficient, or more widely available. Free Press seems to handle this dilemma by simply denying that scarcities exist.

“The Commission should dismiss any hand-waving on traffic increases until both network and financial data is provided to illustrate such a claim.” (p.37)

We have earlier argued that the burden of proof should rightly lie with those arguing for regulations, and we repeat that argument. We must also point to the fact that over the decade that self-styled public-interest groups have demanded network neutrality regulations, Internet transfer speeds have increased from 56 kilobits per second to 3.9 megabits per second.

<http://www.dslreports.com/shownews/Average-US-Broadband-Speed-39-Mbps-106488>

Free Press’s arguments deny that scarcity or congestion is a serious problem in these proceedings. But as the history of the past decade has amply demonstrated, the increase in the speed of broadband and the technological advances that enable their growth are not easily predictable, and should not be taken for granted. Regulations present the risk of freezing the Internet in place. If that had happened in the days when 56kbps was the norm, we would still be engaged in regulatory proceedings as to how those paltry speeds should be fairly managed, rather than treating 56kbps as a barely noticeable error rate in calculating today’s broadband speeds.

Free Press argues that if congestion does occur, the Commission can somehow *mandate* investments to upgrade networks. Their argument appears to be a throwback to rate-case reviews of government-protected monopolies, and demonstrates a complete lack of understanding of how facilities-based competition operates. According to Free Press:

“the Commission should take the steps necessary in this proceeding to ensure investment keeps pace with customer’s usage. In this environment, providers have no justification for interference occurring outside of the brief periods of congestion that occur before further investment is necessary.” (p.43)

Broadband providers are not government-protected monopolies, and facilities-based competition is far from the world of cost-plus regulation.

Even if the Commission assumed the power to “ensure investment keeps pace with customer’s usage to remedy congestion,” how would the Commission ever ensure that investors would choose to risk their dollars to pay for such upgrades? Investors might very well flee broadband networks precisely as a result of such heavy-handed regulatory authority. The FCC has no ability whatsoever to force investors to put a single dollar into broadband networks. The Commission does, however, have the power to create conditions that would significantly diminish the potential for return on investment, thereby forcing investors *out of* broadband networks.

Demand for broadband has grown steadily over the past decade, spurring competition and investment. Whereas Free Press may downplay continuing demand growth for broadband, few analysts would agree. Broadband is a service that is produced and sold according to the laws of supply and demand, and scarce resources are most efficiently distributed through price signals.

When government regulates the production or sale of services, the result is usually artificial rationing.

In opposing price signals as a way of dealing with the problem of congestion (scarce broadband), Free Press places the Commission in a position of dictating to network managers how they will artificially ration the existing supply of broadband.

In its tellingly entitled section

“Network Neutrality Will Have No Impact on Certain ISPs Already Pending Desires to Gouge Their Customers Using Internet Overcharging Billing Schemes,” (p.53)

Free Press reveals both its hostility to the idea that broadband providers have any legitimate interest on seeking a return on investment, but also the probability that Network Neutrality regulations will inevitably lead to the regulation of broadband pricing.

Broadband providers exist in a competitive marketplace, and the idea that they are “scheming” to “gouge their customers” is merely a pejorative assumption by Free Press.

Free Press concludes that:

“If some ISPs do make the shift to Internet overcharging, it won’t be because of pressures from Network Neutrality rules. It will simply be because they possess market power and will have chosen to abuse that market power in order to earn supra-competitive profits. It is paramount that the Commission recognize and understand cause-and-effect, not take carriers at their word as to what underlies their motives to gouge their customers.” (p.62)

Here, Free Press is insisting that whatever havoc is wreaked on the broadband marketplace by the network neutrality regulations they advocate should be attributed to corporate greed rather than the destructive effects of regulation.

There is not a member of the Commission who cannot recall when 56 kbps dial-up connections were once state of the art. A decade later, broadband users commonly operate at speeds 100 times that fast.

Whereas proponents of network neutrality regulations may simply wish away the market’s presumption that consumer demand for faster broadband speeds will continue apace -- the Commission should not. Restricting the business models and network-management practices of competing broadband providers will restrict the investment dollars available to those providers, and this will necessarily slow the advancement of broadband speeds and availability, if not halt it in its tracks.

Network Neutrality Regulations Should Not Be Used to Favor One Industry Sector Over Another

According to Free Press:

“Net Neutrality detractors have long stated that the FCC will be ‘regulating the Internet.’ Of course, this argument fails to recognize that the business of the entities in question is to provide Internet access. Internet access is information services provided via telecommunications, but content and applications hosted on web servers or uploaded by individual users is the ‘Internet.’ Despite this fact, network providers are now the ones truly telling the FCC that any rules that apply to them should apply to the Internet. The competition inherent within the Internet’s ecosystem, along with low barriers to entry, counteracts the need for such an extreme policy measure. Such requests truly do pose a ‘serious risk of harm’ to the Internet.” (p.155)

Free Press is asking the Commission to believe both that broadband providers are not part of the Internet, and that it is illegitimate for broadband providers to be treated as if they were.

Here, Free Press is attempting to wiggle out of a very tight spot in their argument. Having argued throughout its comments that neutrality regulations cannot possibly hurt broadband providers’ ability to attract investments, employ workers, expand and improve their networks, or earn a return on investments, Free Press suddenly argues that it is axiomatic that regulating all other components of the Internet would be “an extreme policy measure” that would “pose a ‘serious risk of harm’ to the Internet.”

Free Press owes the Commission an explanation of why it is so certain that regulating every other component of the Internet is an “extreme policy measure” that would “pose a ‘serious risk of harm,’” yet broadband providers would be mysteriously untouched by these same negative forces.

The Commission should take note that Free Press is letting on here that it knows full well that regulating competing Internet services is inherently inappropriate, extreme, and harmful to the firms being regulated. For Free Press to deal with this obvious double standard by falsely claiming that broadband providers are not part of “the Internet” smacks of a form of rationalizing harm to one’s opponents commonly known as “dehumanizing the enemy.”

Redefining terms does nothing to change the underlying reality. Neutrality regulations are indeed an “extreme policy measure” that would be every bit as inappropriate and harmful to competing broadband providers as they would be to every other firm competing for investors and customers on the Internet.

Rather than playing favorites and using government regulation to favor one sector or firm and disadvantage another, we argue universally that neutrality regulations would be harmful to consumers and producers alike, whether they were to be imposed on Google, broadband

providers, or any other firm engaged in the provision of any Internet services. For this reason, we oppose imposing neutrality regulations on any Internet sector or firm.

The Commission is an Expert Agency That Should Be Dealing in Evidence, Not Alarmism

Free Press argues *a priori* that regulations are necessary to “preserve” an open Internet. Perhaps the greatest problem with this argument is that Free Press has been arguing this same point – and the corollary that an open internet will be destroyed if regulations are not promulgated – for nearly a decade.

To deny that a decade of contrary evidence harms Free Press’s case for regulation is to deny that evidence matters at all in the Commission’s deliberations. The *increasing* openness, *increasing* investments in all sectors of the Internet, *increasing* bandwidth, and *increasing* consumer welfare over the past decade provides the Commission with an overabundance of evidence diametrically opposed to Free Press’s shopworn predictions of doom.

Few organizations have been more openly critical of broadband providers than Free Press, and few have exerted as much energy in an effort to bring broadband providers under the heel of crippling regulations. Yet not a single packet of Free Press’s digital campaign against broadband providers has ever been blocked, slowed, or disadvantaged in any way by those broadband providers.

The absolute freedom with which Free Press has undertaken a nearly decade-long campaign against broadband providers is as strong a testimony as we may hope to find that the dystopian world Free Press paints of an unregulated Internet controlled by oppressive corporate self-interest is absurdly false.

Monopoly Theory Has No Place in Debates over a Competitive Marketplace

Free Press argues early in its comments that:

“The importance of the Internet ecosystem exceeds the sum of its parts; its basic DNA of openness must not be destroyed in the shortsighted pursuit of monopoly profits on the part of the private companies who have made billions by selling access to this common good resource.” (p.3)

And,

“And this is ultimately what the cable and telecom companies fear -- the inability to monetize and extract monopoly profits off every bit that flows across their networks.” (p.18)

Here, Free Press argues that broadband providers will seek “monopoly profits,” and they should therefore be regulated as monopolies.

The problem with this is that broadband providers are not monopolies. If broadband providers were in fact monopolies, why would they spend tens of millions of dollars on advertisements aggressively seeking to win over each other's customer base? Either broadband providers are indeed competitors, or these advertising campaigns would seem to be a psychotic waste of money.

Just as Free Press wishes to re-define broadband provision as being "not part of the Internet," Free Press is seeking to redefine competing broadband providers as monopolies by suggesting they will seek to capture "monopoly profits."

The government grants no monopoly protection to broadband providers. And consumers have more broadband choices than ever before.

If a firm in a competitive market attempts to extract a monopoly charge on its customers, those customers can simply take their business to an eager competitor that is not foolish enough to attempt to extract a monopoly charge.

Competitors offering similar services are punished for higher prices and rewarded for lower prices. To beat out the competition, firms must either offer lower prices or better service – in either case, they must offer what consumers believe is a greater value. For this reason, it is completely unnecessary for the government to regulate against the threat of "monopoly profits" when the firms themselves will do a much better job of forcing efficiencies on their competitors.

More specifically, Free Press focuses on "the ISPs desire to abuse their position as a terminating access monopoly." (p.31)

It is first important to understand that broadband providers are networks that are – contrary to attempts by Free Press and other to define them out – part of "the Internet." The Internet is not a single network, but a network of networks that each individual network joins by virtue of adhering to a set of protocols. From one remote part of the "network of networks" to the other, information services are provided by and to all other participants.

The more networks interconnect on this "network of networks," the greater its value. A network that for some reason is unable to interconnect with other networks would not fare well in a marketplace where customers could take their business to a larger, more valuable network.

The behavior of actual customers has demonstrated that the market has largely rejected the "walled garden" approach to Internet services, preferring to hire providers offering the largest and widest possible network of networks.

Just as a broadband provider that is *unable* to offer customers the larger, wider Internet would suffer in a competitive marketplace, broadband providers that *purposefully* limited the networks available to their customers would suffer the same fate.

For this reason, we question Free Press's assumption that broadband providers will seek monopoly profits by limiting access to other networks. We argue that in a competitive environment, broadband providers must seek to win and retain customers, and so their incentive would be to offer the largest, most valuable network they can.

Talk of broadband providers being able to extract profits as a result of being a "terminating monopoly" is highly misleading in another way as well. Even if someone initiating an exchange might face barriers beyond his control, the recipients of information are fully in control of whether or not they will hire a broadband provider who will erect those barriers. As long as recipients have a competitive marketplace in which to choose a network that facilitates ease of information exchange, then it is not proper to think of any provider as being in a position to exploit a terminating monopoly.

Free Press's argument that broadband providers will limit access to networks in order to extract monopoly charges is hypothetical. Our argument that broadband providers will seek to win and retain customers by offering the largest network possible is a reflection of what has actually developed in the broadband marketplace over the past decade.

Free Press Argues Both that Competition Matters, and Also that Competition Does Not Matter in the Monopoly Power of Broadband Providers

Free Press argues both that competition is a factor in monopoly behavior, and also that it is not. They argue both that the terminal access monopoly is absolute, and that it is mitigated by competition. Both cannot be true.

According to Free Press (emphasis ours):

“Under no circumstances is a carrier abusing its terminating access monopoly efficient, and using that monopoly to price discriminate against specific sources of content compounds the problem, *especially if the provider faces little effective competition.*” (p.34)

If broadband providers truly have access to monopoly charges owing to an inherent terminal access monopoly, then how could “little effective competition” make the problem worse? If “little effective competition” increases the ability of a provider to extract a monopoly charge from a customer, then the converse must also be true -- that “effective competition” decreases the ability of a provider to extract a monopoly charge.

Free Press Admits that No Matter How Much Competition Exists In the Broadband Market, They Will Still Demand that Monopoly Regulations Be Imposed

Free Press argues that broadband providers must be regulated like monopolies, no matter how competitive they may be, because the service they provide is so important. According to Free Press:

“B. Open Internet Protections are Essential Regardless of the State of Last Mile ISP Competition

In the Notice the Commission asked, “to what extent are particular arguments [in support of open Internet policies] independent of competitive conclusions regarding particular markets for broadband Internet access services?” We strongly believe that these basic protections are required regardless of how competitive the market is. This belief is grounded in theory, in history, and in the law itself. Simply put, two-way communications networks are so essential to the basic functioning of society that efficient nondiscriminatory interconnection must be preserved, and the fundamental nature of end-user communications providers as terminating access monopolies means the threat to interconnections will remain regardless of competition.” (p.46)

While we concede that two-way communications are indeed important, so is food. Yet who would seriously advocate imposing non-discrimination regulations on grocery stores using the rationale that: “Simply put, food is so essential to the basic functioning of society that efficient nondiscriminatory groceries must be preserved.” If a grocery store limits its customers’ options as a way to extract monopoly profits, surely the existence of competing grocery stores would limit the potential harm this would have on consumers.

Likewise, competition in the broadband market limits the ability of any competitor to engage in obnoxious behaviors, and promotes the providers’ attention to meeting customer demand by offering them equal or greater value than its competitors.

Applying monopoly theory to a competitive market is simply an incoherent and needlessly destructive economic approach. Market signals are essential to the proper functioning of a competitive marketplace, and regulation interferes with those market signals. Monopoly regulation forces firms to seek permission and lengthy procedures in order to change pricing mechanisms, network management practices, or engage in any innovation.

As far as it has come, the broadband market is still growing and dynamic, and halting it in its tracks with monopoly regulations – no matter how competitive the marketplace may be -- is a reckless and destructive course of action the Commission should scrupulously avoid.

In the Absence of a Government-Protected Monopoly, Network Neutrality Regulations Effectively Represent a Tax on Consumers.

In the absence of a true monopoly, the network neutrality regulations Free Press advocates are not merely inappropriate, they effectively represent a tax on broadband customers by raising the cost of doing business, and this will increase, not decrease the cost of their broadband services.

The inefficiencies resulting from pre-emptive regulation of network management will force additional costs on that network, and such costs will be borne by consumers, either in decreased availability of broadband or price increases. So, in a purported attempt to protect consumers against monopoly charges, Free Press is advocating a policy that would actually harm consumers

by unnecessarily raising the price of broadband services from *all* the competing firms who are that consumer's potential providers.

Free Press Has Failed to Present a Fact-Based, Evidence-Based Case to the Commission

Free Press argues that the lack of evidence of a market failure is not only irrelevant to the argument, but actually presents it as an argument that broadband providers secretly plan to misbehave as Free Press has predicted all along.

According to Free Press:

“Opponents [of regulations] also state that not enough bad examples exist for FCC action yet state any FCC action would foreclose new business models. What business models do they have planned that will violate Net Neutrality? Are operators poised to offer even more bad examples? ... How do not enough bad examples exist to enact Net Neutrality rules while those same rules will prevent new business models based on discrimination?” (p.154)

The Commission should note that Free Press has turned the obligation to present evidence completely on its head by claiming that their own lack of evidence – far from exposing the fact that no such evidence exists -- should compel broadband providers to present evidence for them. Free Press seems to be demanding “evidence” in the form of a “confession” to transgressions that exist only in Free Press's imagination.

Since Free Press is so adamant that neutrality regulations would pose a “serious risk of harm” to every aspect of the Internet other than broadband providers (p.155), we suspect they know full well why broadband providers would not wish to be regulated – because it would pose a “serious risk of harm” to them as well. However, in the event Free Press is honestly ignorant of the negative effects regulation can have on an industry, we will remind them and the Commission that regulations are necessarily restrictive, clumsy instruments that slow or prevent many business activities. Whereas some of the business activities regulations restrict may well be undesirable, it is also true that regulations also restrict business activities that are highly desirable.

The neutrality regulations Free Press advocates would be highly restrictive and would force broadband providers to seek permission before innovating. They would force providers to reveal confidential business plans and management practices to competitors and those who seek to exploit weaknesses in their networks. And, regulations would slow the process by which desirable technological advances take place, such that by the time investors get permission from the government to deploy a new practice or technology, it may well be obsolete or unprofitable in the dynamic conditions of a marketplace.

Since regulations restrict both desirable and undesirable business activities alike, the Commission should only regulate where a) clear and convincing evidence exists that there is a

problem; b) that regulations would efficiently address; and c) in a way that the marketplace cannot.

Free Press has met none of these conditions.

As we have said, we suspect Free Press is well aware of the harm caused by regulation, and is merely engaged in an attempt to distract the commission from the weakness of its case.

However, if Free Press honestly wishes the Commission to believe that its lack of evidence is somehow admissible proof against broadband providers, we would caution the Commission even more strongly before it went down such a path.

A classic sign that one is dealing with a conspiracy theorist is that he treats the utter lack of evidence of the conspiracy as convincing proof of the stealth and totality of the conspiracy. Alas, in the decade-long absence of evidence for its case that the Internet will be destroyed by the free market unless it is saved by the government, Free Press may have crossed over into such a febrile realm.

In the end, Free Press is demanding that the Commission regulate a well-functioning market on the premise that this well-functioning market may someday cease to function well.

Free Press offers no evidence that a market failure exists or that there has been a pattern of abuse. Nor does Free Press address the rather large probability that any future obnoxious behavior on the part of broadband providers would be quickly addressed and corrected by customer complaints and the creative responses of competitors in the broadband marketplace.

Conclusion

In their misleading calls to “preserve” network neutrality, Free Press and other proponents of Internet regulations are asking the Commission to regulate the Internet for the first time.

Neither Free Press nor other organizations petitioning for Internet regulations have offered evidence of a market failure or a pattern of abuses.

Free Press has been arguing for nearly a decade that the Internet will face devastating harms unless the government regulates it. And for nearly a decade, exactly the opposite has unfolded. Free Press’s hypothetical crisis is merely that, and the Commission has neither the obligation nor the ability to promulgate regulations aimed at alleviating a problem for which it can find no evidence.

Free Press and other proponents of Internet regulations have offered ideology in the place of evidence, and fear in the place of facts. We respectfully urge the Commission to vote against regulating the Internet and instead allow it to grow unfettered.

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