



Net Neutrality

Request: Use the Congressional Review Act to roll-back the FCC’s decision to eliminate the agency’s Net Neutrality protections.

Background

In December 2017, the Federal Communications Commission (“FCC”) voted to eliminate the agency’s Open Internet Regulations, which the agency adopted in 2015 to promote “Net Neutrality.” Net Neutrality embodies the principle that broadband companies should offer consumers un-degraded access to the Internet content they request and furnish content providers an impartial digital delivery system. The 2015 Open Internet Regulations aimed to achieve this policy vision by prohibiting broadband companies from: (1) blocking lawful content, applications, devices or services; (2) degrading or “throttling” lawful content, applications, devices or services; and (3) accepting payment to prioritize certain content.

The FCC’s 3-2 party-line decision to eliminate the regulations followed nearly 15 years of debate. During this period, major content companies, broadband providers, consumer advocates and policy makers clashed over ideas about how to best balance consumer needs and broadband provider interests. During this time, the FCC took several Net Neutrality actions, including publishing policy statements and adopting pre-2015 regulations that were later vacated by the courts. Although legal observers expected the 2015 Open Internet Regulations to withstand judicial scrutiny, the FCC’s new leadership argued that the regulations stymied private broadband investment and exceeded the agency’s legal authority.

Elimination of the regulations raises several concerns for school districts and other education stakeholders. First, broadband companies may begin charging content providers new fees to deliver digital learning content -- and those costs may be passed on to schools. Second, new entrants into the education technology market may be blocked or have their services slowed by broadband providers that want to feature their own services or applications, or the services of other companies willing to pay for preferential treatment. Third, districts that lack market power -- especially rural and low-income communities served by a single broadband provider -- may be exposed to higher costs or face degraded service. The FCC Commissioners that voted to eliminate the regulations believe that federally required public transparency and market oversight by the Federal Trade Commission will prevent these and other problems.

Although the Net Neutrality regulations are no longer in place, the issue remains unsettled. Twenty-one states and the District of Columbia recently sued to block the FCC’s repeal of the rules and four other suits are pending in the federal courts. Net Neutrality discussions also remain underway on Capitol Hill. Fifty senators recently joined a coalition to overturn the FCC’s decision using the Congressional Review Act.