



The Fear-based Campaign to Control the Net

Public fear is an ally of big government. 
When fear sets in among the populace
— often with encouragement from self-
interested politicians — the result is usually
an expansion of governmental power and a
loss of individual rights.

Politicians typically stoke fear by exaggerating some perceived threat or by inventing one out of whole cloth. They then declare that government alone can provide the answer. Take the demonization of a recent move led by Sen. Jeff Flake, R-Ariz., and Rep. Marsha Blackburn, R-Tenn., to undo last-minute Obama-era rules from the Federal Communications Commission regulating online privacy.

The rules exempted powerful data-hogs, such as Facebook and Google, while subjecting other service providers to new and confusing rules with the potential to strangle innovation, all thanks to one agency's unauthorized power grab. Companies such as Verizon and Comcast were suddenly required to secure your consent before selling or sharing your browsing history, app usage and other private information with advertisers and other companies.

That sounds sensible, but it actually represents an abrupt departure from decades of established practice under competing regulatory regimes. Indeed, ever since the advent of the internet, the default position was that consumers had to opt out of the program if they didn't want their information sold or shared. The practice was unsurprisingly successful, considering the billions of dollars and attention that tech companies invest in data security to protect consumer privacy.

Yet according to media coverage and the response from liberal advocacy groups, heroic FCC rules protected consumers from a serious threat (in spite of evidence that such a threat didn't actually exist), and now internet freedom advocates have maliciously re-exposed Americans' private information and placed them at the mercy of greedy internet service providers.

Media outlets were filled with sentences like this one, from a March 29 New York Times op-ed by former FCC Chairman Tom Wheeler: "The Senate already approved the bill, on a party-line vote, last week, which means that in the coming days President Trump will be able to sign legislation that will strike a significant blow against online privacy protection." This was from the prominent tech website Ars Technica on the same day: "Internet privacy advocates are mourning the death of online privacy rules, but yesterday's House vote to eliminate the consumer protections was celebrated by (internet service providers), advertisers, and Federal Communications Commission Chairman Ajit Pai."

This would be funny if the level of deception weren't so significant. First, the mourning period should be quite short, because the FCC's rule had yet to even take effect when it was rescinded. Its reversal, hence, is nothing more than an assurance that the FCC will continue "to preserve the vibrant and competitive free market that presently exists for the Internet ... unfettered by Federal or State regulation," as Congress put it in the Telecommunications Act of 1996.

Furthermore, before the FCC seized regulatory control by reclassifying broadband providers as public utilities in February 2015, the Federal Trade Commission exercised jurisdiction over the internet. And for a government agency, it was reasonably hands-off.

When it came to privacy, the FTC took an outcomes-based approach that focused on what data were



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held and the impact of potential misuse. The approach preferred by the FCC, regulating based on who holds the data, opens the door for political favoritism to take precedence over consumer interests.

Unfortunately, as the internet has taken on an ever more central role in our personal and economic lives, the temptation to seize control apparently became too much for the FCC. The political left is invested in the narrative of internet service providers as privacy-violating boogeymen — and the FCC as a heroic digital guardian — not because there is any evidence to support the position but as a means to exercise more control.

With Pai's recent announcement that he intends to stop regulating the internet like a utility and return to the system that began under the Clinton administration — which allowed the internet to become what it is today — we can expect a repeat of the fear-based narrative. Consumers and voters should see this rhetoric for what it is — a transparent attempt to establish government control over the rare place where freedom is still highly regarded.

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