



Written by [C. Mitchell Shaw](#) on June 8, 2015

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FCC Argues to Shackle Internet

When FCC Chairman Tom Wheeler (shown) began pushing the most recent attempt at Net Neutrality, his first public salvo was an op-ed piece written for *Wired*. The February 4 article was his attempt to make the case for the necessity of government regulation of the Internet. Throughout the article, his disdain for the free market is evident. The only way for the Internet to survive, he would have us believe, is to allow the FCC to regulate it as a public utility and make rules for acceptable practices that Internet Service Providers (ISPs) have to follow.



Wheeler wrote,

After more than a decade of debate and a record-setting proceeding that attracted nearly 4 million public comments, the time to settle the Net Neutrality question has arrived. This week, I will circulate to the members of the Federal Communications Commission (FCC) proposed new rules to preserve the internet as an open platform for innovation and free expression. This proposal is rooted in long-standing regulatory principles, marketplace experience, and public input received over the last several months.

One is left to wonder how the Internet ever survived all these years without government regulation. Wheeler seems to believe — or at least expect the American public to believe — that government regulation can do what the free market cannot: “preserve the internet as an open platform for innovation and free expression.”

Going even further, Chairman Wheeler claimed that it was regulation of the telephone industry that made the Internet possible in the first place:

The internet wouldn't have emerged as it did, for instance, if the FCC hadn't mandated open access for network equipment in the late 1960s. Before then, AT&T prohibited anyone from attaching non-AT&T equipment to the network. The modems that enabled the internet were usable only because the FCC required the network to be open.

Companies such as AOL were able to grow in the early days of home computing because these modems gave them access to the open telephone network.

Wheeler's claim is based in a lack of faith in the free market. He assumes that the modems that were developed *after* telecom regulation were necessary for the Internet to emerge, and he speculates that some other form of communication device would not, *could not*, have been developed in the absence of that regulation. The free market answer to that is that the Internet would have simply evolved differently. Other technology would have been invented to make the connections needed for people to access the Internet. The modems that he claims required government intrusion into private-sector business simply would not have been needed because there would have been something else that did not require government intrusion. The best evidence of that is that the Internet has continued to evolve



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by using newer technology. Not many people are using dial-up modems anymore.

The truth is, even without telecom regulation requiring telephone companies to allow open access for Internet modems, “companies such as AOL” would likely have found another way to get the job done. That’s just how free market innovation works.

As Wheeler continued his effort to make his case, his anti-free market bias became even more obvious. He related a story of his own failed business model, which he seemingly believes proves the case for the glories of government regulation:

I personally learned the importance of open networks the hard way. In the mid-1980s I was president of a startup, NABU: The Home Computer Network. My company was using new technology to deliver high-speed data to home computers over cable television lines. Across town Steve Case was starting what became AOL. NABU was delivering service at the then-blazing speed of 1.5 megabits per second — hundreds of times faster than Case’s company. “We used to worry about you a lot,” Case told me years later.

But NABU went broke while AOL became very successful. Why that is highlights the fundamental problem with allowing networks to act as gatekeepers.

While delivering better service, NABU had to depend on cable television operators granting access to their systems. Steve Case was not only a brilliant entrepreneur, but he also had access to an unlimited number of customers nationwide who only had to attach a modem to their phone line to receive his service. The phone network was open whereas the cable networks were closed. End of story.

End of story, indeed. Setting aside the assertion that failing at something makes one an expert at it, his point is irrelevant. And misleading. His business did not fail because of a lack of government regulation; and AOL did not succeed because of government regulation. There are some important facts missing from Wheeler’s narrative of why his company failed and AOL succeeded:

- NABU’s network operated primarily in Ottawa, Canada, whereas AOL (which was known as Quantum Computer Services until 1991) was based in New York and covered the United States. Consequently, Quantum/AOL had a larger base from which to attract subscribers.
- NABU’s Internet service required the purchase of a very expensive specialized computer (made by NABU) to connect to its network. Quantum/AOL was designed (at first) to work on the very popular Commodore 64. Quantum/AOL later expanded its software and network to support other popular computers as the market changed.
- NABU relied on cable systems that did not support bi-directional connections that were essential to the network NABU was developing (NABU stands for Natural Access to Bi-directional Utilities). Quantum/AOL used telephone lines, which are bi-directional.
- NABU was heavily subsidized by the Canadian government. Quantum/AOL was a privately owned company that went public in 1992. If government involvement equaled success, NABU should have succeeded and Quantum/AOL should have failed.

That Wheeler overlooks all of that and sees the sole reason for his company’s failure and AOL’s success as the presence or absence of government regulation says more about his worldview than it does of the proper province of government. Rather than take responsibility for the failure of his company and learn a lesson that could be applied to future endeavors, he chooses to blame the free market for his failure.



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Now he is simply attempting to apply that broken worldview and failed logic to the greatest innovation man has ever known. It's as if he wants to destroy the Internet for everyone because he couldn't succeed in business with it. If you can't join them, beat them.

That worldview is really at the heart of the whole Net Neutrality debate. Do we as a people believe in a free market, or do we believe that only government can do what none of us can do? How we answer that question will decide the fate of liberty for generations to come. In the digital age, there is no distinction between digital liberty and any other liberty. If we allow government to take over the Internet, we will lose the greatest tool for liberty we have ever known. End of story.

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