



Written by [C. Mitchell Shaw](#) on January 22, 2018

Published in the January 22, 2018 issue of [the New American](#) magazine. Vol. 34, No. 02

---

## Net Neutrality Nonsense

*From the print edition of The New American*

### Correction, Please! Net Neutrality Nonsense

A sampling of news stories:

**Item:** CNN reported on December 14 that the FCC's vote repealing net neutrality was the "end of the Internet as we know it." In fact, that very claim served as the original headline before the liberal news network changed the it to "Trump's FCC votes to repeal Net Neutrality." And while the phrase, "end of the Internet as we know it" no longer appears in the article, the entire tone of the article carries that though.



CNN's Seth Fiegerman wrote that the "Net Neutrality rules, approved by the FCC in 2015, were intended to keep the internet open and fair" and that the repeal, which threatens the Internet, "passed 3-2, along a party-line vote."

**Item:** Also on December 14, CNN Money reported that the FCC "voted ... to dismantle rules regulating the businesses that connect consumers to the internet, granting broadband companies the power to potentially reshape Americans' online experiences." Rife with references to broadband providers no longer being barred from "blocking websites or charging for higher-quality service or certain content," the article painted a dystopian picture of the future of the Internet.

**Item:** Echoing the sky-is-falling theme of liberal reporting on the death of net neutrality, the Washington Post reported on December 14 that the FCC "just changed the Internet" under the not-so-subtle headline, "Why Ajit Pai is wrong about net neutrality." Claiming that "net neutrality ensures that telecom providers don't discriminate in providing Internet service to consumers by price or content," the article attempts to make the case that the vote to end net neutrality was a vote for decimating the Internet by allowing those evil telecom giants to operate without government regulation.

**Item:** The Verge jumped into the fray of doomsday reporting on the death of net neutrality with two reports — both dated December 14 — under the headlines "The FCC just killed net neutrality" and "What public libraries will lose without net neutrality." The articles themselves were loaded with end-of-the-world-as-we-know-it claims.

The first of these articles featured a graphic of red digital skulls invoking thoughts of the death of the Internet itself. That article claimed that net neutrality rules — dating all the way back to 2015 — "prevented internet providers from blocking and throttling traffic and offering paid fast lanes." It also asserted that the Obama-era FCC's reclassification of the Internet as a public utility under Title II of the Communications Act of 1934 provided "a strong legal backing" to the rules. It then went on to lament that the December 14 vote to repeal net neutrality "undoes all of that" by removing "the Title II



Written by [C. Mitchell Shaw](#) on January 22, 2018

Published in the January 22, 2018 issue of [the New American](#) magazine. Vol. 34, No. 02

---

*designation, preventing the FCC from putting tough net neutrality rules in place even if it wanted to.”*

*The other article is even more deeply steeped in liberal fantasy-think. Written and published before the vote was finalized (though the results of the vote were a foregone conclusion), the article claimed, “The FCC will vote on a measure today that would repeal net neutrality and pave the way for the end of the free, open internet as we’ve always known it.” It went on to predict that as a result of the FCC repealing net neutrality, people will lose access to the Internet and be unable to do homework assignments, search for and apply for jobs, and seek higher education. Dire predictions, indeed, if they had any truth to them. Fortunately, they don’t, as we shall see.*

**Correction:** While the liberal media is acting like the end of net neutrality is the end of a free and open Internet (or at least the “end of the Internet as we know it”), nothing could be further from the truth.

Perhaps a little background is in order.

As we covered in an article entitled “Regulating your e-Freedom” in our June 8, 2015 issue, net neutrality — far from protecting the free and open Internet — posed a very real danger to any hope of keeping the Internet either free or open. Here is a tip for those who want to know: Government regulation is the opposite of freedom and openness. Net neutrality — a misnomer if ever there was such a thing — was never about neutrality; it was about regulating the Internet, something the courts had already correctly decided on two previous occasions that the FCC lacked the authority to do. As this writer stated in that previous article:

This is not the first time the FCC has attempted to enforce Net Neutrality. Two previous attempts were fairly short-lived, with the courts deciding that the FCC lacked the authority to enforce Net Neutrality. So, FCC Chairman Tom Wheeler began seeking a legal tool to make the third time a charm. When President Obama called on the FCC to reclassify the Internet as a public utility, Wheeler (who had originally opposed the idea) reversed his previous position and began pushing reclassification as the legal tool Net Neutrality advocates had been seeking. Having been denied the ability to regulate the Internet in the past because of a lack of legal authority, the FCC simply reclassified it as a Title II public utility, and — voilà! — the authority to regulate it suddenly exists.

When the FCC voted on February 26, 2015 to reclassify the Internet as a “public utility” under Title II of the Communications Act of 1934, it was grasping for the “authority” to regulate the Internet, based on its already-existing “authority” to regulate the telephone and television industries. But calling the Internet a public utility does not mean that that’s how it should be regarded.

Interestingly, the creation of net neutrality, like the recent repeal of net neutrality, passed by a three-to-two, party-line vote. But the liberal media made an issue of the vote being along party lines only in the case of the repeal.

The Internet is the most innovative, pervasive, free, and open form of communication man has ever known. Access to it is more readily available now than ever before, and an increasing number of people are using it as the primary method for their communications. When used properly, the Internet allows private, anonymous communication in a way that is unrivaled. Beyond that, it is also a marketplace, a research network, an alternative news source, and much, much more. It is all these things because it grew up largely unhindered by government regulation (read: interference).

*This article appears in the January 22, 2018, issue of The New American.*



Written by [C. Mitchell Shaw](#) on January 22, 2018

Published in the January 22, 2018 issue of [the New American](#) magazine. Vol. 34, No. 02

---

But the uniqueness of the Internet notwithstanding, suppose that it should be considered a public utility. Does such a designation therefore mean that it should be regulated? Rather than accepting Wheeler's argument that the FCC should regulate the Internet because it regulates "other" public utilities, the contrary argument could be made that the FCC should not be regulating the telephone and television industries either. In fact, there is no enumerated power in the Constitution for such federal regulations. Nevertheless, as Thomas Paine observed in *Common Sense*, "A long habit of not thinking a thing wrong, gives it a superficial appearance of being right, and raises at first a formidable outcry in defense of custom." The American people have for so long had overreaching government that too many of them have come to accept and expect it. Rather than demand that government be restrained to its proper constitutional role, they tend to defend the oppression once it becomes established and entrenched.

Building error upon error, Wheeler promised that his scheme would — by the power of government regulation — protect the free and open Internet from the power of Internet Service Providers (ISPs), which he referred to as "gatekeepers." Never mind that the entire scheme was built on one lie after another.

Besides the primary lie that the Internet required government regulation to make it free and open and the secondary lie that the FCC possesses this regulatory authority, there are other lies too numerous to cover in this article. Let's take a look at three of them:

- The most important of these other lies is that the three "bright-line" rules of Wheeler's net neutrality order were designed to protect the Internet from the threat of ISPs acting as "gatekeepers." In reality, they were rules against a free-market Internet. A detailed look at the more than 400 pages of rules (as an aside, one is left to wonder how the Internet could ever have survived as long as it did, if more than 400 pages of regulations were needed to keep it free and open) shows that the devil is the details. Those three "bright-line" rules (against blocking, throttling, and paid prioritization) were rife with case-by-case exceptions and definitions that were broader than the categories they claimed to define. In the final summation, they could not accomplish what they promised. Instead, those "bright-line" rules were merely window dressing for the "general conduct rule" that Wheeler called a "catch-all standard." This rule authorized the FCC to regulate nearly everything about the Internet, including rates and content.
- Another lie is related to rate regulation: Wheeler and the other architects and supporters of net neutrality promised there would be no regulation of Internet rates (similar enough to Obama's promises of no premium increases with the misnamed Patient Protection and Affordable Care Act), but in April 2016, Wheeler testified before Congress that a bill to keep the FCC from regulating Internet rates would kill net neutrality and prevent the commission from enforcing its rules. This was because the power to set rates was part of net neutrality all along.
- The promise that net neutrality would not regulate content was a lie. By November 2015, it was already apparent that politically conservative websites could find themselves in the cross hairs of censorship under the net neutrality order. After all, Wheeler publicly acknowledged that his "catch-all standard" allowed it, and his promise of "forbearance" was just words.

Regarding the latter, as net neutrality began shaping up to regulate Internet content, former FCC Commissioner Harold Furchtgott-Roth filed a brief with the U.S. Court of Appeals for the D.C. Circuit saying in part:



Written by [C. Mitchell Shaw](#) on January 22, 2018

Published in the January 22, 2018 issue of [the New American](#) magazine. Vol. 34, No. 02

---

In addition to compelling speech, the order impermissibly singles out broadband providers without imposing similar requirements on the speech of other Internet entities who also act as gatekeepers.

In other words, “edge providers” (a term used by the FCC to describe “any individual or entity that provides any content, application, or service over the Internet, and any individual or entity that provides a device used for accessing any content, application, or service over the Internet”) should be regulated by net neutrality the same as ISPs, since they, too, could act as “gatekeepers.” But remember, many “edge providers” (such as Netflix, Hulu, Google, and others) provide “content.”

The “bright-line” rules were the camel’s nose in the tent; Wheeler’s “catch-all standard” was the rest of the camel, allowing for *total* regulation, including both rates and content (read: government censorship of the Internet).

Although the liberal media is claiming that the repeal of net neutrality is “the end of the Internet as we know it,” the reality is that, as FCC Chairman Ajit Pai said after the December 14 vote, “The internet wasn’t broken in 2015. We were not living in some digital dystopia.” In fact, even supporters of net neutrality seem to acknowledge Pai’s point, without even realizing they are doing so. Consider, for example, *The Verge* article “What public libraries will lose without net neutrality,” which was referenced in the “Items” segment of this column. The writer of this piece stumbles over his own logic (if it can be called that) when he warns that the repeal of net neutrality will “pave the way for the end of the free, open internet as we’ve always known it.” But since the “free, open internet as we’ve always known it” has been around in its commercial form since the late 1980s, and net neutrality has been in effect only since June 2015, net neutrality cannot be the cause of a free, open Internet.

The death of net neutrality is not the end of the free, open Internet. In fact, the death of net neutrality may well have saved the Internet from being strangled to death by government regulation.



Written by [C. Mitchell Shaw](#) on January 22, 2018

Published in the January 22, 2018 issue of [the New American](#) magazine. Vol. 34, No. 02

## Subscribe to the New American

Get exclusive digital access to the most informative, non-partisan truthful news source for patriotic Americans!

Discover a refreshing blend of time-honored values, principles and insightful perspectives within the pages of "The New American" magazine. Delve into a world where tradition is the foundation, and exploration knows no bounds.

From politics and finance to foreign affairs, environment, culture, and technology, we bring you an unparalleled array of topics that matter most.



[Subscribe](#)

### What's Included?

- 24 Issues Per Year
- Optional Print Edition
- Digital Edition Access
- Exclusive Subscriber Content
- Audio provided for all articles
- Unlimited access to past issues
- Coming Soon! Ad FREE
- 60-Day money back guarantee!
- Cancel anytime.