



Key Broadband Topics: The Federal Communications Commission December 7, 2017

In previous [Policy Briefs](#), Connected Nation has summarized Federal Communications Commission (FCC) broadband-related topics and actions the Commission had taken in 2017. This Policy Brief summarizes and analyzes broadband-related actions taken by the Commission during its November 2017 Open Meeting, as well as announced actions on an expected repeal of Net Neutrality rules and expansion of Rural Health Care programs at the Commission's upcoming December meeting.

FCC's November 16, 2017 Meeting

In addition to substantive measures directly related to broadband, the Commission adopted a Report and Order to assist in restricting unwanted "robocalls," which have continued to proliferate despite laws against them.

The FCC also took [action](#) to eliminate regulatory red tape regarding the replacement of utility poles that streamlined historic preservation review where new poles are "substantially identical." The FCC adopted a [Notice of Proposed Rulemaking](#) on cable data collection, and adopted a [Report and Order and a Further Notice of Proposed Rulemaking](#) allowing TV broadcasters to voluntarily adopt ATSC 3.0 transmission standards.

In a more hotly debated action, the FCC adopted an [Order on Reconsideration](#) that altered existing rules on broadcast ownership. The FCC's current rules set limits on media ownership in a single market, which were designed to discourage ownership consolidation and to encourage ownership diversity. Both Democratic Commissioners strongly opposed the action, arguing that relaxing standards will weaken localism, diversity, and competition in media markets.

Expansion of Spectrum for Terrestrial and Satellite Broadband

The FCC took the very positive step to expand terrestrial and satellite wireless broadband in an [Order](#) that will make 1,700 MHz of spectrum available for terrestrial wireless use and 4 GHz for satellite. These platforms, thanks to innovation in millimeter wave technology, are now able to use high band spectrum (above 24 GHz), previously unavailable for broadband access. The Order and its results will expand the availability and quality of wireless service in the U.S.

Accelerating Wireline Broadband Deployment

In one of two significant actions taken by the FCC that will directly and substantively impact broadband, the FCC voted to adopt a [Report and Order, Declaratory Ruling and Further Notice of Proposed Rulemaking](#) designed to accelerate wireline broadband deployment by removing barriers to investment.

The order adopted by the FCC takes steps to reform access to utility poles and conduits. Access to poles and conduit is a critical element of new broadband deployment; delays and high-costs associated with pole and conduit access can hinder new networks, drive costs beyond anticipated ranges which condemn projects to failure, or can kill new deployment outright.

The order also takes steps to allow current broadband providers to more easily shift from copper wire networks to fiber by eliminating or lessening regulatory barriers. Legacy networks are limited in their capacity to provide next-generation broadband, but they can be an important resource for other telecommunications service providers who seek wholesale access for their products. However, consumer groups have some concern that some services used by the disabled, senior citizens, or first responders may be negatively impacted as networks shift from copper to fiber.

Lifeline Revisions and Reform – “Bridging the Digital Divide for Low-Income Consumers”

The FCC also took a controversial step to make [changes](#) to the Universal Service Fund’s (USF) Lifeline program, which subsidizes fixed or wireless phone or broadband service for low-income households.

In an Order adopted by the Commission, the FCC took several steps that will change how Lifeline subsidies will affect low-income consumers on Tribal lands. The FCC also made changes to reverse a rule adopted in 2016 on so-called “port freezing,” which allowed a Lifeline provider to prevent dissatisfied customers from switching providers. The FCC also adopted rules to increase broadband quality requirements for providers receiving subsidies. These rule changes were adopted on a 3-2, party line vote with Republicans voting in favor and Democrats dissenting.

Lifeline is a frequent target of critics who charge that program is rife with waste, fraud, and abuse. Critical policymakers in Washington, DC routinely propose legislation that would drastically reform or eliminate the program. The action also contained a Notice of Proposed Rulemaking to generate comments on further Lifeline changes. The FCC specifically proposes and requests comments on the following:

- Limiting Lifeline support to facilities-based providers;
- Restoring the role of the states in approving which providers are eligible for Lifeline support;
- Establishing a budget cap on Lifeline to limit the program’s size; and
- Establishing a maximum discount from providers on Lifeline services.

FCC December 14, 2017 Meeting – A Look Ahead

On November 21, 2017, the office of FCC Chairman Ajit Pai circulated a [draft order](#) to FCC Commissioners that would repeal the “net neutrality” rules adopted by the FCC in 2015. The 2015 rules, which reclassified internet service in order to more heavily regulate broadband service providers, were adopted on a party-line vote of 3-2 by the Democratic-controlled Commission. Highly controversial and opposed by the broadband industry and free-market advocates, the rules created a regulatory regime designed to prevent the paid prioritization of internet traffic (i.e., the creation by internet service providers of broadband “fast lanes” and “slow lanes”).

Pai’s step to repeal the rules has been anticipated since the first days of the Trump Administration, and in the days since its announcement, proponents of net neutrality have re-ignited the grassroots movement that helped adopt the rules in 2015.

This proposal is praised by those who have long argued that the rules were a policy solution in search of problem, and condemned as a threat to democracy by those who wish to leave the rules in place. Net neutrality proponents promise a legal challenge to any step the FCC takes to repeal the rules. This would mark at least the third substantive round of litigation in the federal court system over net neutrality.

In a statement, Pai contrasted the fact that the rules were not seen by the American public until weeks after their adoption with his promise to circulate the draft publicly at least three weeks before the December 14 meeting. Pai characterizes the upcoming action as a return to a light-touch regulatory framework that was not broken and fostered two decades of digital innovation between 1996 and 2015.

The agenda for the FCC’s December [meeting is extensive](#). In addition to the anticipated action on net neutrality, the Commission will consider six other items, including a laudable effort to strengthen the USF Rural Health Care program and expand access to telehealth services in rural areas. The Rural Health Care [Notice of Proposed Rulemaking and Order](#) would increase the program’s \$400 million cap (to address the fact that the program’s demand outstrips its resources and has not been changed since the program’s creation in 1997). The cap creates a scenario where subsidies are prorated among eligible rural healthcare applicants, which creates a reality where healthcare providers see their benefits “cut” as the program’s popularity increases.

The Order will allow the USF to carry forward unused funds from prior years for use in FY 2017. It also seeks comments on whether the program should adopt a regulatory framework to prioritize funding in situations where the cap is exceeded, based on criteria such as rurality or remoteness, the type of service, economic need, areas where healthcare professionals are fewer, etc.

The December meeting promises to continue to generate advance publicity and ensures a healthy discussion of its proposed agenda. Connected Nation will provide further policy updates after the meeting and the FCC’s actions.

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