



The Daily Dish

# Net Neutrality Settled Once And For All, Sorta

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## Eakinomics: Net Neutrality Settled Once And For All, Sorta

Let's review. All was well in Internet-land until 2015, when the Obama-era Federal Communications Commission (FCC) reclassified broadband service as a Title II service — the moral equivalent of making the Internet a 1930's telephone service — and then applied a series of regulations to the service. It was a drastic change [from decades of previous FCC stances](#) and from [Congress' own interpretation of the law](#), and the shift produced a spate of lawsuits. In late 2017, FCC Chairman Pai changed course to put broadband Internet back under Title I. Once more, a number of groups sued. The key issue before the DC Circuit Court was whether the Restoring Internet Freedom (RIF) order was arbitrary and capricious.

On Tuesday, the DC Circuit Court of Appeals [upheld](#) the legality of the RIF order, sort of. While the judges found “unconvincing” the arguments of those opposing the FCC, they also ruled that the FCC had exceeded its authority when it unilaterally barred states from adopting their own net neutrality regulations. (California passed legislation last year, but it is not yet being enforced.) This decision raises the specter of an Internet burdened by myriad different rules of the game, and it means that the agency will have to challenge each state provision in court.

The larger issue is that Congress has never passed a law making net neutrality legal. The courts are constantly trying to rule based on a law that is fundamentally ambiguous. Now it is also up in the air as to who is in charge. It is time for Congress to step up and solve this problem, putting in place a legal foundation that grants consumers control while still allowing for innovation to flourish on the Internet. And in the process, Congress should clearly settle the right of the federal government to be the sole regulator of the Internet.