



The Daily Dish

(Political) Mission Accomplished

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Eakinomics: (Political) Mission Accomplished

As [predicted](#), yesterday the Senate voted 52-47 to pass a resolution ostensibly reversing the Federal Communications Commission's (FCC's) decision in December 2017 to roll back the Obama-era utility-style regulation of the Internet. The Senate's vote took place under the Congressional Review Act (CRA, [5 U.S.C. 801](#)), a 1996 law that allows Congress to pass a joint resolution of disapproval voiding federal regulations. Debate was limited to 10 hours and could not be filibustered. Senate Democrats intended this to be a huge embarrassment to the FCC. The resolution now heads to the floor of the House, where it will need 25 Republicans to join the Democrats if it is to pass. The political messaging is complete.

But what about the actual substance of the Internet? It is unaffected and would remain so even if the resolution managed to pass Congress and get signed by President Trump. As AAF's Will Rinehart has [noted](#), "The CRA gives Congress the ability to disapprove a rule, which is defined in Title 5 of U.S Federal Code [Subsection 551](#)." The key point is that there is a distinction between a "rule" and an "order" supported by an adjudication. The action taken by the FCC in December 2017, the Restoring Internet Freedom Order, was to reclassify Internet service, which might be considered an adjudicatory order. That means the CRA may not be able to reverse it.

From a policy perspective, the fundamental problem has been unchanged for a decade now: Congress has not given the FCC enough authority to establish sensible net neutrality regulations. The courts have tossed out repeated attempts and the Obama FCC tried the Hail Mary of pretending the Internet was a 1930's-style monopoly telephone company. None of this makes any sense. The right path forward is for Congress to pass bipartisan legislation that settles once and for all the rules of Internet conduct.

That would be mission accomplished.