



The Daily Dish

# The Internet Is Still Not Broken

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## Eakinomics: The Internet Is Still Not Broken

Over the years Eakinomics, in particular, and AAF, in general, has spilled a [lot of ink](#) over the general issue of net neutrality and the internet's regulation by the Federal Communications Commission (FCC). The most damaging of these regulations was the so-called Open Internet Order during the Obama Administration, which sought to "save" the internet by classifying broadband services as the equivalent of a 1930s phone call and regulating it to a standstill.

Under Chairman Pai, the FCC issued in 2018 the Restoring Internet Freedom (RIF) Order, which restored the light-touch regulatory approach under Title I of the Communications Act that has prevailed for essentially all of the history of the internet and is responsible for the tradition of dramatic innovation and its ability to [withstand the demands](#) placed on it by the COVID-19 pandemic. The net neutrality cult bewailed the imminent failure of the internet (wrong) and...sued.

The courts largely upheld RIF but remanded three specifics to the FCC for further consideration—namely, the effect of that Order on: (1) public safety; (2) the regulation of pole attachments; and (3) universal service support for low-income consumers through the Lifeline program. Yesterday the FCC buttoned up its policy by issuing the RIF Order on Remand. Specifically, the FCC found (in its words) that:

- The *Restoring Internet Freedom Order* promotes public safety, facilitates broadband infrastructure deployment, and allows the Commission to continue to provide Lifeline support for broadband Internet access service.
- The light-touch approach adopted by the Commission and the regulatory certainty provided by the *Restoring Internet Freedom Order* benefit public safety and further the Commission's charge of promoting "safety of life and property" and the national defense through the use of wire and radio communications.
- Neither the Commission's decision to return broadband Internet access service to its long-standing classification as an information service, nor its decision to eliminate the Internet conduct rules, is likely to adversely impact public safety.
- The benefits of returning to the light-touch information service classification adopted in the *Restoring Internet Freedom Order* far outweigh the limited potential negative effects resulting from the loss of section 224 pole attachment rights for broadband-only Internet Service Providers.
- The Commission has legal authority under section 254(e) of the Communications Act to provide Lifeline support to eligible telecommunications carriers that provide broadband service over broadband-capable networks that are also used for voice service.

Hopefully, government intrusion into the internet is over and a light-touch regulatory framework will remain in place in the future as we continue down the path to 5G. Again and again, the litigation surrounding FCC and the internet is not about the substance of the regulation, but instead on whether the FCC has the authority to issue those rules. Congress should remove all doubt and cement the light-touch framework in statute. Unfortunately, there is no guarantee unless Congress acts.