



Fact-Checking President Biden's Myth-Filled Plan for Government Control of the Internet

WASHINGTON, DC, October 11, 2023—FCC Commissioner Carr issued the following statement:

Following President Biden's call for the FCC to apply utility-style controls to the Internet under Title II of the Communications Act of 1934, the agency announced it will begin implementing that plan at next week's FCC meeting. As with past iterations of this debate, the plan's backers are trotting out a series of farcical claims to justify this power grab—claims that are as credible as their assertion in 2017 that ending Title II regulation would slow down and end the Internet. Reminder: mobile speeds are up over 6X since then! So here are just some of today's top Title II myths followed by facts that set the record straight.

Myth: Title II merely reinstates net neutrality rules.

Fact: Title II is not net neutrality. Title II imposes a host of sweeping, utility-style controls on the Internet that have nothing to do with net neutrality rules like no blocking or throttling. The federal government has many options for codifying net neutrality rules without Title II. Far from requiring neutrality, Title II lets the government decide what Internet conduct is reasonable.

Myth: Title II is necessary for national security.

Fact: The plan identifies no gap in national security that Title II would fill. Indeed, Congress has already empowered Executive Branch agencies with national security expertise, including DOJ, DHS, and Treasury, with the lead when it comes to security issues in the communications sector. In other words, the Administration has the power it needs to deal with any bad actors, without Title II.

Myth: Title II is necessary for law enforcement.

Fact: The FCC applied the Communications Assistance for Law Enforcement Act or CALEA to broadband providers long ago, without Title II regulation.

Myth: Title II is necessary to require outage reports, which advance public safety.

Fact: The FCC already requires outage reports from services that are not subject to Title II, like VoIP.

Myth: Title II stops ISPs from engaging in blocking, throttling, or anti-consumer prioritization.

Fact: We have a free and open Internet today without Title II. ISPs aren't engaging in that conduct for reasons that have nothing to do with Title II. Indeed, the Biden Administration's plan makes no showing that any one of the thousands of ISPs in this country have the market power or history of conduct that would justify intrusive, Title II regulations.

Myth: Title II does not involve broadband rate regulation.

Fact: The plan expressly proposes rate regulation for broadband (see para. 104).

Myth: Title II protects consumers and their online privacy.

Fact: Applying Title II would strip the nation’s lead consumer protection agency—the Federal Trade Commission—of 100% of its authority over broadband. That includes exempting ISPs from the FTC’s privacy rules. What’s more, federal law now prohibits the FCC from reimposing its old broadband privacy rules on ISPs.

Myth: Title II is necessary because COVID-19 demonstrated the importance of connectivity.

Fact: COVID-19 exposed the error of applying Title II-like utility regulations to the Internet as the European Union has long done. As detailed [here](#), when online traffic spiked during COVID-19, EU officials asked Netflix and other streamers to ration their service to keep the continent’s slow, fragile networks from breaking. The U.S. had no need to ration service—our network speeds exceeded theirs by 83% because our regulatory approach encouraged investment and buildout.

Myth: Title II will protect innovative offerings.

Fact: The Title II proposal actually targets free data plans and pro-consumer, zero rating offerings. So if you like your plan, you may not be able to keep your plan.

Myth: Title II promotes affordable broadband.

Fact: Prices for utility-regulated services like electricity, water, and gas have been increasing over two times faster than the prices for Internet services. Monopoly regulation invariably lead to monopoly prices. In addition, Title II opens the door to regulators adding new taxes and fees to consumers’ monthly broadband bills.

Myth: Title II is necessary to protect Big Tech companies from ISPs.

Fact: Whatever merit this argument had 20 years ago when upstarts like Google first asked DC to heavily regulate their ISP competitors, it ignores the subsequent history. Tech companies are now dominant gatekeepers with market power. Indeed, the Biden Administration is currently suing Google and others over what the government views as tech’s discriminatory conduct. Yet the FCC is proposing to extend new protections to these very same corporations through Title II. Talk about backwards looking.

Myth: Title II is good for competition and rural broadband.

Fact: Since 2017, when the FCC ended the Obama Administration’s two-year experiment with Title II, competition among ISPs increased significantly, with the percentage of Americans having access to two or more fixed, high-speed providers increasing by ~30%. The digital divide also narrowed substantially without Title II, and new entrants are now taking market share. Utility regulation will only slow down and increase the headwinds that small and rural ISPs are already facing.

Myth: Title II establishes a legally sustainable framework.

Fact: President Obama’s former appellate lawyers [said](#) it best—Title II regulation of the Internet “would be struck down” by the Supreme Court and “would be a serious mistake.”

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