

# United States Senate

WASHINGTON, DC 20510

October 5, 2023

The Honorable Jessica Rosenworcel  
Chairwoman  
Federal Communications Commission  
45 L Street NE  
Washington, D.C. 20554

We write regarding our strong opposition to the Federal Communication Commission's (FCC's) proposal to reinstate the heavy-handed, public-utility regulations of Title II of the Communications Act on the internet. Doing so would be an historic mistake.

When the FCC rescinded the Obama-era Title II order almost six years ago, partisans argued that it was the “end of the internet as we know it,”<sup>1</sup> that “you’ll get the internet one word at a time,”<sup>2</sup> that consumers would have to pay by the tweet,<sup>3</sup> and that online access would slow to a crawl.<sup>4</sup> All such hyperbolic claims have proven false, as even FCC Democrat commissioners have admitted.<sup>5</sup>

The growth of the internet continues to be a great American success story. Broadband investment has increased, deployment has increased, speeds have increased, and high-speed internet access has become more affordable than ever. American networks, freed from obtrusive regulations, easily handled the surge in demand during the COVID-19 pandemic.<sup>6</sup> In contrast, Europe's heavily regulated internet providers were forced to actively slow down speeds to maintain connectivity.<sup>7</sup> Indeed, America is now a leader in adopting next-generation telecommunications services like 5G and Wi-Fi 6e while Europe struggles to keep pace.

Re-imposing heavy-handed, public-utility regulations on the internet would threaten the progress our country has made since 2017, and it would steer our country out of the fast lane and into a world of less competition, less choice, less investment, slower speeds, and higher prices.

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<sup>1</sup> CNN headline declares “end of the Internet as we know it” after net neutrality vote, The Hill (Dec. 14, 2017), <https://thehill.com/homenews/media/364959-cnn-headline-declares-end-of-the-internet-as-we-know-it-after-net-neutrality/>.

<sup>2</sup> Senate Democrats, Twitter post, (Feb. 27, 2018), <https://twitter.com/SenateDems/status/968525820410122240>.

<sup>3</sup> David Carroll, Twitter post, (April 30, 2017), <https://twitter.com/profcarroll/status/858534939968638976>.

<sup>4</sup> *5 Major Ways the Internet Will Change Without Net Neutrality*, ABC News (Jan. 15, 2014), <https://abcnews.go.com/Business/major-ways-internet-change-net-neutrality/story?id=21541399>.

<sup>5</sup> See Federal Communications Commission Nominations: Hearing Before the Senate Committee on Commerce, Science and Transportation, 118th Cong. (June 22, 2023) (responses of Commissioners Starks and Gomez to Sen. Cruz).

<sup>6</sup> Anna-Maria Kovacs, *U.S. broadband networks rise to the challenge of surging traffic during the pandemic*, (June 15, 2020), <https://www.ustelecom.org/wp-content/uploads/2020/06/PP-2020-06-Kovacs-internet-performance.pdf>.

<sup>7</sup> Brett Molina, *YouTube reducing streaming quality in Europe because of coronavirus*, (Mar. 20, 2020), <https://www.usatoday.com/story/tech/2020/03/20/coronavirus-youtube-reducing-stream-quality-europe/2882846001/>.

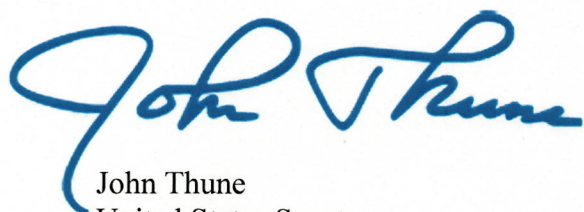
Further, the FCC lacks this statutory authority over broadband internet access. Any attempt by the FCC to reinstate net neutrality regulations and the onerous rules of Title II on internet service providers will not survive judicial review. The FCC has pushed net neutrality and already lost in court—more than once—and two of President Obama’s former solicitors general have warned that reclassification by the FCC cannot survive the major questions doctrine.<sup>8</sup>

Given the lack of any policy or legal rationale for moving forward with such a proposal, the FCC should not pursue a hyper-partisan, politicized rulemaking.

Our country faces real challenges. A lack of public-utility regulations for the internet is not one of them. Instead, the FCC and the Biden administration should be focusing on bipartisan efforts to address real problems, such as addressing rampant waste, fraud, and abuse in the federal government’s broadband subsidy programs, and regulatory and permitting obstacles to broadband deployment, both of which divert funds and resources from the goal of connecting unserved Americans.

We urge you to end this charade and shelve this fifth attempt to adopt so-called “net neutrality” regulations.

Sincerely,



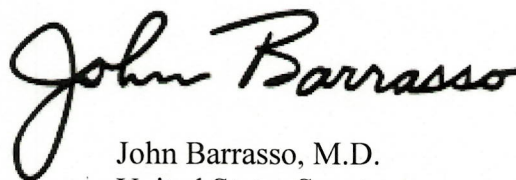
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United States Senator



Ted Cruz  
United States Senator



Mitch McConnell  
United States Senator



John Barrasso, M.D.  
United States Senator



Joni K. Ernst  
United States Senator



Shelley Moore Capito  
United States Senator

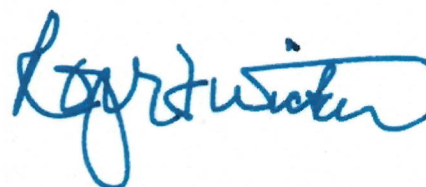
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<sup>8</sup> Donald B Verrilli, Jr. and Ian Heath Gershengorn, *Title II “Net Neutrality” Broadband Rules Would Breach Major Questions Doctrine*, (Sept. 20, 2023), <https://aboutblaw.com/bazq>.

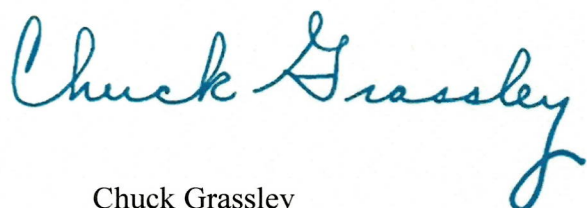




Steve Daines  
United States Senator



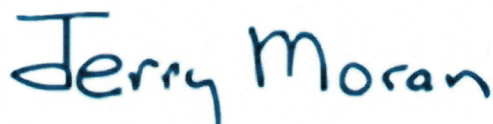
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Kevin Cramer  
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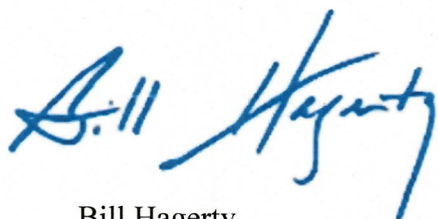
Todd Young  
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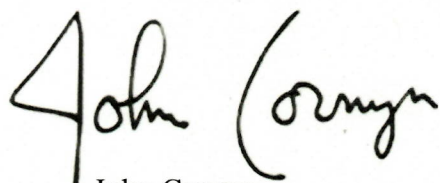
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