Updates
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Why the FCC’s Net Neutrality Rules Were Struck Down

The decades-long fight over net neutrality appears to be over.

In one of the first appellate decisions since the Supreme Court of the United States overturned *Chevron* deference in *Loper Bright Enterprises v. Raimondo* (2024), the U.S. Court of Appeals for the Sixth Circuit’s decision in *Ohio Telecom Association v. FCC* (2025) held that the Federal Communications Commission (FCC) lacks authority to reinstate its 2015 net neutrality rules. In many ways, the long battle over net neutrality served as a testing ground for the evolving jurisprudence on how much deference should be owed to federal agencies’ interpretations of their own delegated authority.

The Net Neutrality Saga in Brief

The FCC first adopted net neutrality principles in the form of voluntary guidelines in 2005 during the George W. Bush administration. In 2008, the Bush FCC tried to enforce these guidelines against a broadband internet access service (BIAS) provider. The FCC’s enforcement order was overturned by the U.S. Court of Appeals for the District of Columbia Circuit in 2010, which held that only rules properly adopted with notice and comment can be enforced by the agency.

In response to the D.C. Circuit, the Obama administration’s FCC tried twice to codify net neutrality by rulemaking proceedings. The FCC's first attempt was overturned by the D.C. Circuit in 2014, when it held that the FCC cannot treat unregulated providers as common carriers unless it first reclassifies them as Title II carriers. Following the D.C. Circuit’s roadmap, in 2015, the FCC reclassified BIAS providers as Title II carriers and adopted revised net neutrality rules designed to prevent BIAS providers from blocking or throttling online content or engaging in other discriminatory practices. The FCC’s 2015 net neutrality rules were met with strong opposition from the cable industry, wireless industry, and other stakeholders aligned with BIAS providers. On the other side, consumer advocacy groups argued with equal passion that BIAS was too critical to the public to

be left unregulated.

Under President Donald Trump, the FCC reversed itself by repealing its net neutrality rules in 2018. By the time the Biden FCC later moved to reinstate the repealed rules in 2024, the Supreme Court had already begun to chip away at the authority of federal agencies. The Supreme Court's doctrinal shift culminated in *Loper Bright*, where the Court overturned the long-standing *Chevron* doctrine, under which courts had been directed to show deference to federal agencies' interpretations of their own organic acts to resolve statutory ambiguities, and ruled that only courts, not agencies, have the authority to interpret and resolve statutory ambiguities. Following *Loper Bright*, many observers thought it was inevitable that the FCC's 2024 order to reinstate net neutrality would be overturned by the courts.

The Sixth Circuit Decision

The Sixth Circuit's ruling in *Ohio Telecom* relied on the *Loper Bright* decision as the basis for setting aside the FCC's own interpretation of its statutory authority under the Communications Act of 1934, as amended. The court found the FCC's interpretation of broadband internet access service as a Title II "telecommunications service" to be "inconsistent with the plain language of the Communications Act" and that "Broadband Internet Service Providers offer only an unregulated 'information service.'" As such, the FCC "exceeded its statutory authority" in reinstating the net neutrality rules. The court emphasized that any future FCC effort to reinstate net neutrality "would require clear congressional authorization."

Diverging Perspectives

Outgoing FCC Chairwoman Jessica Rosenworcel expressed disappointment, underscoring the public's demand for an open internet and calling on Congress to legislate net neutrality. "Consumers across the country have told us again and again that they want an internet that is fast, open, and fair," Rosenworcel said, emphasizing the urgency of Congressional action. Conversely, Brendan Carr, the incoming FCC chairman designated by President Trump, celebrated the ruling as a win for limited government. "Today's decision is a good win for the country," Carr stated, criticizing the Biden administration's approach as unnecessary regulatory overreach. He also called for a renewed focus on expanding broadband access and next-generation connectivity.

Takeaways

Because the FCC's net neutrality rules had been repealed in 2018 and the FCC's 2024 order to reinstate net neutrality never became effective, the Sixth Circuit decision essentially preserved the status quo and did not change anything for consumers or businesses. Given that the Sixth Circuit appears to have faithfully followed *Loper Bright*, it seems highly unlikely that any appeal to the Supreme Court would result in a different outcome. While there are no federal net neutrality rules, state net neutrality laws that largely mirror the FCC's 2015 rules (such as those in California and Washington) remain unaffected by this decision. Because many broadband internet access providers, particularly wireless providers, offer nationwide coverage, these state laws may still encourage providers to broadly comply with the net neutrality principles against blocking, throttling, and discriminatory practices even in states without such laws. Nationwide and regional broadband internet access providers will need to remain mindful of state laws and governors' executive orders requiring compliance with net neutrality principles.

More broadly, the Sixth Circuit's ruling demonstrates how, post-*Loper Bright*, federal courts will substitute their own judgment over the interpretations of federal agencies to define the limits of federal agencies' authority. Ultimately, this decision marks the end of net neutrality at the federal level. Any possibility of its revival would require action from Congress, which appears unlikely for the foreseeable future.

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