



Public Knowledge

FCC Sets Sights on Critical Tech Transitions Rules, Threatening Consumers, Competitors, and Small Businesses

In April, the Federal Communications Commission proposed the elimination of nearly all the pro-consumer, pro-business rules adopted in 2015 to facilitate the transition of legacy phone networks to modern technologies. Despite the clear risk of harm to consumers and local businesses, the FCC is charging ahead with its deregulatory agenda, no matter the risk or cost.

Protecting Consumers and Local Businesses Requires the Preservation of the FCC's Rules

One of the towns hardest hit by Hurricane Sandy in 2012 was Fire Island, New York. Among other damage, Verizon's network infrastructure there was destroyed. Rather than repairing the damage, Verizon replaced the damaged copper network with VoiceLink, a wireless technology that was incompatible with (among other things) fax machines, credit card readers, home alarms, and school fire alarms. Perhaps most alarmingly, VoiceLink technology couldn't reliably complete 911 calls. Despite the harm suffered by residents and businesses, Verizon insisted it was well within its rights to make the changes without concern for secondary consequences.

In response to this disaster, and in light of a broader transition (namely the retirement of legacy, circuit-switched networks in favor of modern, Internet Protocol-based networks) occurring in our phone networks, the FCC took action pursuant to its 1996 Congressional mandate to supervise the transition of legacy copper networks. The Commission established clear rules to guide the transition. These rules balanced the need to facilitate a smooth transition between systems and usher in modern connectivity against the needs of consumers, small businesses, and competitors to be informed about forthcoming changes with ample time to plan.

The Rules Only Require Adequate Communication, Education, and Authorization as Directed by Congress, and Do Not Unduly Obstruct or Delay Deployment

The FCC's rules are simple: when a provider plans to affect changes to its service, it must give its customers, competitors, and other relevant public agencies (such as the Department of Defense and local governments) 180 days advance written notice, specifically identifying the

forthcoming changes to pricing or service terms. The notice must also advise consumers of any secondary effects of the change, such as potential impacts on 911 systems, school fire alarms, credit card readers, and other business equipment, and impacts on competitors who utilize phone company infrastructure. The companies cannot provide preferential “advance notice” to their own affiliates, but must tell all their subscribers at once. And, in the event that a provider seeks to actually rip out any copper infrastructure without replacing it, Section 214 of the Telecommunications Act dictates that they must get FCC approval.

In sum, the rules require that a provider must inform the people and businesses to be impacted. The legacy phone network now facing retirement has formed the backbone of local and national infrastructure for decades; public safety and the needs of small businesses require that users be given a heads-up that the phone network they know and rely upon may work differently in the future.

The Convenience of Three Telephone Companies Does Not Outweigh the Potential Harm to Millions of Small Businesses and Consumers

The bulk of the copper network affected by these rules is owned by a small handful of companies. AT&T, CenturyLink, and Frontier Communications together own the overwhelming majority of copper infrastructure still in operation and subject to the copper retirement rules. The IP transition will surely bring benefits; modern network technologies are much better at delivering broadband, which is the essential communications medium of the 21st century. It's important that the transition go forward, but it need not forge ahead at the expense of health, safety, and economic activity. The rules in place today strike a healthy balance, protecting consumer safety and local businesses while providing a simple path to transitioning technology for incumbent providers.

Chairman Pai's Proposal Ignores the Lessons of Fire Island and Guts Protections for the Convenience of Phone Company Monopolies

These rules, which amount to little more than common sense and a balanced attitude toward consumer needs, are under siege. The FCC is pursuing total elimination of these protections and shortening of any notice windows. If implemented, the FCC's proposal would eliminate most notice requirements, relieve providers of any obligation to consider (or warn customers of) potential secondary effects of their actions, and reduce the number of avenues available for affected customers to raise concerns about any proposed transition. FCC Chairman Pai's proposal would, in short, give phone companies near-total autonomy to replace their networks without concern for the impact on consumers, local communities, or small businesses.

It's worth remembering that, in this case, users can't meaningfully vote with their wallets; most Americans have little choice of local phone or broadband provider, and the overwhelming majority of rural Americans lack any meaningful choice. The FCC's current plan sets aside common sense to rush headlong toward deregulation, no matter the risk to health and safety, consumers, or local communities. Public Knowledge strongly urges policymakers to oppose Chairman Pai's effort to steamroll consumers, public safety, small businesses, and local communities for the convenience of a few monopolistic phone companies.