

Open Internet Process: Then and Now

In 2014, Commissioner Pai gave some advice to the Commission when it adopted a notice of proposed rulemaking on net neutrality. Will Chairman Pai take Commissioner Pai’s advice?

Commissioner Pai’s Advice (2014)	Chairman Pai’s Actions (2017)
“A dispute this fundamental is not for us, five unelected individuals, to decide. Instead, it should be resolved by the people’s elected representatives, those who choose the direction of government—and those whom the American people can hold accountable for that choice.” ¹	Moving forward with action at the FCC, with only three Commissioners.
“I recommended that the Commission seek guidance from Congress instead of plowing ahead yet again on its own.” ²	Deciding the FCC is the appropriate venue, instead of waiting for Congress to act.
“We should ask ten distinguished economists from across the country to study the impact of our proposed regulations and alternative approaches on the Internet ecosystem. To ensure that we obtain a wide range of perspectives, let each Commissioner pick two authors.” ³	No input sought from independent economists. No opportunity for other Commissioners to offer input.
“[W]e should host a series of hearings where Commissioners could question the authors of the studies and the authors of those studies could discuss their differences.” ⁴	No hearings held.
“We should also engage computer scientists, technologists, and other technical experts to tell us how they see the Internet’s infrastructure and consumers’ online experience evolving.” ⁵	No input sought from independent technologists.
“And [decisions made] should avoid embroiling everyone, from the FCC to industry to the average American consumer, in yet another years-long legal waiting game.” ⁶	Twice-upheld <i>2015 Open Internet Order</i> being undone without any care for legal risks or uncertainty.
“We are not confronted with an immediate crisis that requires immediate action.” ⁷	Rushing ahead to repeal net neutrality and Title II without any immediate need to do so.

¹ Pai 2014 OI NPRM Dissent at 2, https://apps.fcc.gov/edocs_public/attachmatch/FCC-14-61A5.pdf.

² *Id.*

³ *Id.* at 4.

⁴ *Id.* at 4-5.

⁵ *Id.* at 5.

⁶ *Id.*

⁷ *Id.*