

**DISSENTING STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL**

Re: *Restoring Internet Freedom*, WC Docket No. 17-108.

Net neutrality is internet freedom. I support that freedom. I dissent from this rash decision to roll back net neutrality rules. I dissent from the corrupt process that has brought us to this point. And I dissent from the contempt this agency has shown our citizens in pursuing this path today. This decision puts the Federal Communications Commission on the wrong side of history, the wrong side of the law, and the wrong side of the American public.

The future of the internet is the future of everything. That is because there is nothing in our commercial, social, and civic lives that has been untouched by its influence or unmoved by its power. And here in the United States our internet economy is the envy of the world. This is because it rests on a foundation of openness.

That openness is revolutionary. It means you can go where you want and do what you want online without your broadband provider getting in the way or making choices for you. It means every one of us can create without permission, build community beyond geography, organize without physical constraints, consume content we want when and where we want it, and share ideas not just around the corner but across the globe. I believe it is essential that we sustain this foundation of openness—and that is why I support net neutrality.

Net neutrality has deep origins in communications law and history. In the era when communications meant telephony, every call went through, and your phone company could not cut off your call or edit the content of your conversations. This guiding principle of nondiscrimination meant you were in control of the connections you made.

This principle continued as time advanced, technology changed, and Internet access became the dial tone of the digital age. So it was twelve years ago—when President George W. Bush was in the White House—that this agency put its first net neutrality policies on paper. In the decade that followed, the FCC revamped and revised its net neutrality rules, seeking to keep them current and find them a stable home in the law. In its 2015 order the FCC succeeded—because in the following year, in a 184-page opinion the agency’s net neutrality rules were fully and completely upheld.

So our existing net neutrality policies have passed court muster. They are wildly popular. But today we wipe away this work, destroy this progress, and burn down time-tested values that have made our Internet economy the envy of the world.

As a result of today’s misguided action, our broadband providers will get extraordinary new power from this agency. They will have the power to block websites, throttle services, and censor online content. They will have the right to discriminate and favor the internet traffic of those companies with whom they have pay-for-play arrangements and the right to consign all others to a slow and bumpy road.

Now our broadband providers will tell you they will never do these things. They say just trust us. But know this: they have the technical ability and business incentive to discriminate and manipulate your internet traffic. And now this agency gives them the legal green light to go ahead and do so.

This is not good. Not good for consumers. Not good for businesses. Not good for anyone who connects and creates online. Not good for the democratizing force that depends on openness to thrive. Moreover, it is not good for American leadership on the global stage of our new and complex digital world.

I’m not alone with these concerns. Everyone from the creator of the world wide web to religious leaders to governors and mayors of big cities and small towns to musicians to actors and actresses to entrepreneurs and academics and activists has registered their upset and anger. They are reeling at how this agency could make this kind of mistake. They are wondering how it could be so tone deaf. And they

are justifiably concerned that just a few unelected officials could make such vast and far-reaching decisions about the future of the internet.

So after erasing our net neutrality rules what is left? What recourse do consumers have?

We're told don't worry, competition will save us. But the FCC's own data show that our broadband markets are not competitive. Half of the households in this country have no choice of broadband provider. So if your broadband provider is blocking websites, you have no recourse. You have nowhere to go.

We're told don't worry, the Federal Trade Commission will save us. But the FTC is not the expert agency for communications. It has authority over unfair and deceptive practices. But to evade FTC review, all any broadband provider will need to do is add new provisions to the fine print in its terms of service. In addition, it is both costly and impractical to report difficulties to the FTC. By the time the FTC gets around to addressing them in court proceedings or enforcement actions, it's fair to assume that the start-ups and small entities wrestling with discriminatory treatment could be long gone. Moreover, what little authority the FTC has is now under question in the courts.

We're told don't worry, the state authorities will save us. But at the same time, the FCC all but clears the field with sweeping preemption of anything that resembles state or local consumer protection.

If the substance that got us to this point is bad, the process is even worse.

Let's talk about the public record.

The public has been making noise, speaking up, and raising a ruckus. We see it in the protests across the country and outside here today. We see it in how they lit up our phone lines, clogged our e-mail in-boxes, and jammed our online comment system. It might be messy, but whatever our disagreements are on this dais I hope we can agree this is democracy in action—and something we can all support.

To date, nearly 24 million comments have been filed in this proceeding. There is no record in the history of this agency that has attracted so many filings. But there's something foul in this record:

Two million comments feature stolen identities.

Half a million comments are from Russian addresses.

Fifty thousand consumer complaints are inexplicably missing from the record.

I think that's a problem. I think our record has been corrupted and our process for public participation lacks integrity. Nineteen state attorneys general agree. They have written us demanding we halt our vote until we investigate and get to the bottom of this mess. Identity theft is a crime under state and federal law—and while it is taking place this agency has turned a blind eye to its victims and callously told our fellow law enforcement officials it will not help.

This is not acceptable. It is a stain on the FCC and this proceeding. This issue is not going away. It needs to be addressed.

Finally, I worry that this decision and the process that brought us to this point is ugly. It's ugly in the cavalier disregard this agency has demonstrated to the public, the contempt it has shown for citizens who speak up, and the disdain it has for popular opinion. Unlike its predecessors this FCC has not held a single public hearing on net neutrality. There is no shortage of people who believe Washington is not listening to their concerns, their fears, and their desires. Add this agency to the list.

I, too, am frustrated. But here's a twist: I hear you. I listen to what callers are saying. I read the countless, individually written e-mails in my in-box, the posts online, and the very short and sometimes very long letters. And I'm not going to give up—and neither should you. If the arc of history is long, we are going to bend this toward a more just outcome. In the courts. In Congress. Wherever we need to go to ensure that net neutrality stays the law of the land. Because if you are conservative or progressive, you benefit from internet openness. If you come from a small town or big city, you benefit from internet

openness. If you are a company or non-profit, you benefit from internet openness. If you are a start-up or an established business, you benefit from internet openness. If you are a consumer or a creator, you benefit from internet openness. If you believe in democracy, you benefit from internet openness.

So let's persist. Let's fight. Let's not stop here or now. It's too important. The future depends on it.