

# FCC Chairman Pai Proposes New Regulatory Framework for Broadband ISPs, Seeks Comment on Net Neutrality Rules

Article By:

Matthew S. DelNero

David J. Bender

---

In a widely anticipated step, FCC Chairman Ajit Pai has [released](#) a draft Notice of Proposed Rulemaking (“NPRM”) on the legal framework that governs broadband providers and related net neutrality questions.

Most notably from a privacy perspective, the draft NPRM proposes to find that broadband Internet access service is an “information service” under the Communication Act, reversing the 2015 “telecommunications service” classification that had brought broadband providers under the statutory privacy requirements of Title II of that Act.

The draft NPRM states that the 2015 reclassification “stripped FTC authority over Internet service providers,” in light of the common carrier exemption in Section 5 of the FTC Act. By reversing the FCC’s prior finding that broadband is a common carrier service, the draft NPRM proposes to “return jurisdiction over Internet service providers’ privacy practices to the FTC, with its decades of experience and expertise in this area.”

The scope of the FTC’s enforcement jurisdiction over non-common carrier activities of communications providers—a category that would include broadband under the NPRM’s proposed framework—was the subject of a recent [Ninth Circuit decision](#). The draft NPRM points out that the FCC has supported the FTC’s petition for rehearing of that decision, which interpreted the scope of FTC Act’s common carrier exemption in a broad manner.

In addition to undoing the 2015 reclassification, the NPRM would, among other things:

- Propose to eliminate the “Internet conduct standard,” through which the FCC makes case-by-case determinations about whether conduct not covered by bright-line rules is harmful to net neutrality principles (which has included review of practices alternately referred to as “zero rating” or “free data”);
- Solicit comment on whether to retain, modify, or eliminate bright-line rules adopted in 2015 that generally prohibit broadband providers from blocking, throttling, or paid prioritization of lawful content;

- Solicit comment on whether to retain, modify, or eliminate the transparency rule, which requires broadband providers to disclose publicly their commercial terms, network management practices, and network performance; and
- Solicit comment on the sources of legal authority and costs and benefits of net neutrality regulation.

Chairman Pai has asked his fellow Commissioners to vote on the NPRM at the FCC's next monthly meeting, scheduled for May 18, 2017. If adopted in its current form, the NPRM would set the deadline for comments on July 17, 2017, with reply comments due August 16, 2017.

© 2025 Covington & Burling LLP

---

National Law Review, Volume VII, Number 120

Source URL: <https://natlawreview.com/article/fcc-chairman-pai-proposes-new-regulatory-framework-broadband-isps-seeks-comment-net>