



# NEWS

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.  
See *MCI v. FCC*, 515 F.2d 385 (D.C. Cir. 1974).

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## **STATEMENT OF COMMISSIONER MICHAEL O'RIELLY ON INTERNET REGULATION AND FAUXBEARANCE**

I am troubled by statements that the Net Neutrality item will grant broad forbearance from Title II, and I feel compelled to respond to these claims. The promised forbearance amounts to fauxbearance. The FCC fact sheet clearly states that the item leaves in place more than a dozen provisions that are central to common carrier regulation. With regulations ranging from rates to privacy to pole attachments copied and pasted onto broadband service, most of Title II will apply right out of the box, with more to come later. Indeed, sections 201 and 202, by themselves, are so broad in scope that they could easily be used as a means to backfill all of the fauxbearance provided from other provisions.

While much attention has been paid to the rate regulation language contained in sections 201(b) and 202(a), I am equally troubled by the implications of section 201(a), which requires common carriers to provide service upon “reasonable request” and empowers the Commission to order carriers “to establish physical connections” and “through routes”. In other words, the Commission could demand that ISPs provide service, including interconnection. Nowhere in the fact sheet does the FCC disavow its intent to do so, so I must consider that it is a real possibility. Additionally, subjecting so many practices to a case-by-case determination of “reasonableness” raises major concerns about further delegation of Commission authority to agency staff, a phenomenon that has already gone much too far in my opinion. The FCC fact sheet promises the certainty of “bright line rules,” but instead raises many more questions than answers, and exposes the uncertainty that will chill broadband investment and innovation to the harm of consumers.