



Two Contrasting Approaches to Policy: Build or Stagnate

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One of the most influential essays about American dynamism is Marc Andreessen's treatise "It's Time to Build."¹ Published in the Spring of 2020 during the dark night of the COVID pandemic, the venture capitalist articulates a hopeful future where Americans embrace optimism. He explains that there are two approaches we can take going forward.

One is a fixed mindset that continues our nation down the road of mediocrity and stagnation. The other is a growth mindset where people embrace challenges and build a better future through developing new innovations, launching emerging industries and making big leaps forward. This prescient essay forecasts many of the current debates around emerging

technologies like Artificial Intelligence (AI). In California, for example, we saw a concerted legislative effort to strangle open source AI² in the cradle — creating a regulatory framework that would drive leading AI companies to flee the Bear Republic.³ It is no wonder that Marc Andreessen’s essay has been a rallying cry for effective accelerationism (e/acc) and other free-market advocates who want a light-touch approach that allows AI in the US to flourish, instead of legislating against hypothetical harms.

As policy debates rage over AI there are helpful lessons to learn from other ongoing technology policy debates. Just look down the Internet stack to the network and infrastructure level these fights have raged on for nearly 30 years. Since the 1996 Telecommunications Act there have been similarly two mindsets at war over how policies should be implemented around Internet providers.

Most of this ongoing debate has been centered at the Federal Communications Commission (FCC) where regulators have taken one of two paths forward. On one hand you have had leaders at the FCC like Commissioner Brendan Carr⁴ and Chairman Ajit Pai⁵ who have embraced innovation and that has spurred on next-generation Internet connectivity. Then, on the other hand, you have had FCC leaders such as current Chairwoman Jessica Rosenworcel and former Chairman Tom Wheeler who have implemented a “Mother may I?”⁶ approach to Internet connectivity. Their approach has created arbitrary barriers to entry for new Internet providers or regulations to weed out hypothetical harms that only hurt tangible efforts to close the digital divide. Over the past year, there are three

examples of current policy fights that have manifested these differing approaches.

Let’s start with the granddaddy of telecom regulatory fighting, net neutrality. As you should know by now, this ongoing back and forth began in 2015 when then FCC Chairman Tom Wheeler pushed through Title II to extend utility-style regulations on Internet providers. After it was clear this foolhardy approach was hindering broadband investment and doing nothing to address concerns about Internet censorship, Wheeler’s successor FCC Chairman Ajit Pai righted the ship, repealing the net neutrality rules and applying a light touch approach. As Europe struggled to handle the increased demand during COVID, the US was better able to handle the surge of Internet traffic⁷, not to mention the faster Internet speeds that occurred in the US immediately after Pai’s intuitive actions.

Yet good things don’t last in DC and the fixed mindset philosophy that Andreessen warned us about came flooding back as President Biden’s pick for the FCC, Chair Jessica Rosenworcel, decided to bulldoze Ajit Pai’s approach and bring back Title II. This time the courts appear to be stepping in to halt this gross example of government overreach.

It isn’t just net neutrality where this diverging approach is on display. Late last fall, the FCC pushed through a partisan Digital Discrimination Order that would implement fines and penalties on any entity involved in the delivery of broadband connectivity if they were deemed to be promulgating⁸ “disparate treatment and disparate impact” on consumers. This basically means that if the FCC thinks anyone

is getting unfair treatment they can fine and punish any entity.

As Brendan Carr explained,⁹ this new regulatory approach “gives the FCC a nearly limitless power to veto private sector decisions,” and, for the first time ever, gives “the federal government a roving mandate to micromanage nearly every aspect of how the Internet functions.” The rule even applies¹⁰ to tower builders and climbers who are merely servicing infrastructure. If the FCC thinks they are perpetuating “disparate impact,” these construction crews will face stiff penalties even though these crews didn’t pick where the service would or would not cover.

Finally, we see these differing approaches in the way the current Biden Administration is implementing the \$42 Billion BEAD Program.¹¹ Three years after Congress authorized the program, not one dollar has been spent to connect Americans or build out broadband infrastructure. Uninterested in deploying to unconnected communities now, the Biden Administration has used the program as an opportunity to implement longstanding¹² ideological priorities like DEI and climate alarmist goals that

have dramatically slowed down efforts to close the digital divide. Instead of allocating the resources in a tech-neutral way, the administration is creating mandates on private companies in exchange for the broadband funding that will only handcuff the entrepreneurs who are set to build out broadband.

This contrasts significantly with the approach Brendan Carr and Ajit Pai called for which would have leveraged market-based policies and guarded against overbuilding. These policies would have resulted in faster, more efficient buildout to the rural communities who most desperately need that connectivity.

As the political discourse in tech evolves to address emerging innovations, it is imperative to learn the right lessons from other industries. This is so clearly on display in the longstanding fights in telecommunications and other established industries. Instead of continuing the fixed mindset that permeates so many in Washington, it truly is time to build.

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ENDNOTES

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- 4 Shane Tews, "'Extending US Leadership on 5G: A Conversation with FCC Commissioner Brendan Carr," Interview. *American Enterprise Institute*. March 15, 2024. <https://www.aei.org/events/extending-us-leadership-on-5g-a-conversation-with-fcc-commissioner-brendan-carr/>
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