

The Free State Foundation

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News Release

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FSF Urges Rejection of New Broadband Regulations

May Says Free Press, Allies' Comments Reflect Anti-Market Bias

POTOMAC, MD – In reply comments submitted today to the Federal Communications Commission, Randolph May, President of the Free State Foundation, urged the agency to explicitly reject the proposals of Free Press, Public Knowledge, Consumers Union, and Consumers Federation of America for implementation of a plethora of new regulations. Instead, May stated, "the Commission must make clear that the national plan will be grounded in market-oriented principles that reflect the competitiveness and dynamism of the digital age marketplace."

In his comments, May stated, even a casual reading of the comments of Free Press, Public Knowledge, Consumers Union, and Consumers Federation of America, "will show that these commenters have a very strong anti-market bias that leads them presumptively to favor, at every turn, more government control over the communications marketplace. So, for example, they advocate common carrier regulation of broadband, implementation of an inflexible nondiscrimination mandate that would preclude effective network management, structural separation for wholesale and retail broadband services that would create substantial economic inefficiencies, re-regulation of special access services that would discourage additional competition, and more."

According to May, these comments "reflect an ingrained anti-market bias, one that invariably dictates more regulation, and a bias against privately-owned broadband networks. Rather than any nuanced view that focuses on, say, unserved areas as targets for special regulatory attention or support, or that acknowledges existing evidence as to why Americans do not subscribe to broadband service, Free Press, Public Knowledge, Consumers Union, and CFA take a blunderbuss approach that advocates one-size-fits-all nationwide regulatory solutions."

Adoption of the inflexible, non-targeted anti-market proposals put forth by Free Press and its allies would be unsound and harmful to the nation's economy and to consumers. "If the Commission were to adopt a national plan that incorporates or reflects these proposals," May stated, "it will be sending a clear signal that has the effect of discouraging private investment capital." May declared: "Free Press and its allies do not dispute that over \$200 billion in private capital has been invested in recent years in broadband deployment; they just ignore this fact because, willfully or otherwise, they

are oblivious to the role that private sector investment has played in achieving such widespread deployment."

Randolph May has over thirty years of experience in communications law and policy, including service as Associate General Counsel of the FCC. May is the co-editor of two books on communications policy, *Net Neutrality or Net Neutering: Should Broadband Internet Services Be Regulated* and *Communications Deregulation and FCC Reform*, and the editor of the forthcoming book, *New Directions in Communications Policy*. He is the author of over a 125 scholarly law review articles, essays, and commentaries on communications law and policy topics. He is a past Chair of the American Bar Association's Section of Administrative Law and Regulatory Affairs, a member of the ABA House of Delegates, and a past member of the Administrative Conference of the United States.

A PDF version of the comments is here.

The Free State Foundation is an independent nonprofit, Section 501(c)(3), free market-oriented think tank.

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