

What Small Businesses Stand to Lose in a Net Neutrality Rollback

by Jessica Rosenworcel

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Deep in the golden corn fields of Iowa, technology is transforming life on the farm. For decades, the production of corn has been led by family-based businesses who operate their farms with a time-tested mix of traditional agriculture tools. But now many of them have added something new to their arsenal: a mobile app called FarmLogs.

FarmLogs is a simple way for a family farm to move its fields from the pre-internet age to the cutting edge. Farmers who used to trudge down long rows of cornstalk are now using FarmLogs' satellite imagery and algorithms to turn raw agricultural data into powerful insights. Instead of jotting down notes about plant dates, weather conditions, soil nutrients, and crop yields, farmers are crunching big data sets to better forecast profits, track expenses, and schedule operations.

These “connected farms” are not just making life easier for those who run them, they are helping their fields to flourish. As a result, in just a few short years, nearly one-third of all U.S. farms have signed up to use FarmLogs to manage their operations. It helps make their businesses more efficient and more profitable. It also helps smaller farms level the playing field with their larger competitors with greater scale.

Today, examples of online companies disrupting major industries abound. But FarmLogs is not your typical technology start-up, and its founders, Jesse Vollmar and Brad Koch, are not your typical Silicon Valley-style entrepreneurs. You won't find FarmLogs' headquarters in California, but instead in Michigan, a day-long drive from the Corn Belt. Nearly all of its customers are in the Midwest. Jesse Vollmar is a fifth-generation soy and corn farmer from Michigan. His partner, Brad Koch, similarly grew up surrounded by farms, and is only a few generations removed from farming himself. The pair started the company in their twenties.

The success of this company is as much about agricultural process as about how the internet age has made entrepreneurship more accessible to all. Right now, anyone with an interest in launching a new venture has access to unprecedented online resources, relationships, and services. Good ideas and products can emerge from anywhere and almost instantly achieve national and even global reach. Crowdfunding platforms and social media have changed the way many small businesses get started raising capital. This stands in stark contrast to the state of entrepreneurship two decades ago, when starting a technology business often meant prohibitively heavy upfront investments, physical equipment, and limited access to broadband networks. It's hard to imagine a time when it was easier for anyone to start a business.

This trend – call it the “democratization of entrepreneurship” – depends on an open internet. Since its inception, the growth of the internet has been guided by a foundational principle: your broadband provider should not get to pick winners and losers in terms of how quickly or easily you

can access things online. Instead, you should control what you see and what you do, and everyone should have an equal opportunity to get their content or service to their intended audience, without interference. This principle has led to a virtuous cycle of innovation that has driven our economy in previously unimaginable directions. For the first time, small business could think big and consumers could shop small, from anywhere in the world.

These policies were not an accident. They were the byproduct of a regulatory regime put in place in the United States by the Federal Communications Commission. Since the Communications Act of 1934, networks in the United States have been required to operate in a nondiscriminatory fashion (see [here](#) and [here](#)). For telephony, this meant every call went through and providers could not limit who, when, and where you sought to make a connection.

Over time, the FCC updated these policies for the internet era. In 2005, for instance, the agency issued its first net neutrality policy statement. Building on long-standing principles of nondiscrimination, the agency made clear that consumers should be able to access the lawful content of their choice, without their broadband provider editing content or censoring access to online services. Over the next decade, the FCC refined and adjusted its approach to net neutrality, in response to a series of court decisions that required the agency to find proper legal home for these policies in the Communications Act. It's a law I'm familiar with as someone who serves as a Commissioner at the FCC.

In 2015, the FCC succeeded. It put in place a series of basic net neutrality rules that finally passed court muster. These rules prevent broadband providers from blocking websites, censoring content, throttling access to services, and engaging in paid prioritization schemes, under which a broadband provider accepts payment to manage its network in a way that benefits particular content, applications, services, or devices. These rules are not just court-tested, they are wildly popular and an important part of the democratization of entrepreneurship. They prevent broadband providers from getting in between a business and its customers online.

Nevertheless, on December 14, FCC leadership has scheduled a vote to eliminate these rules. The agency has offered little in the way of an explanation of why this drastic change is needed, much less justified. It has said that these rules have made it harder for a few broadband providers to justify investing in their networks. However, there is evidence to suggest that network investment has in

fact increased by more than 5% since the agency put its most recent policies in place in 2015. Moreover, not a single publicly-traded U.S. broadband provider has told its investors or the Securities and Exchange Commission that these rules have negatively impacted its network investment.

For businesses – especially small businesses – rolling back net neutrality could have big consequences. For the first time, broadband providers will have the technical capability, the business incentive, and legal authority to discriminate in the provision of internet access. Small businesses and entrepreneurs will have to bear the costs of pay-to-play internet service, which could make it harder to achieve scale without providing a cut of their revenue to their broadband provider. Those that don't pay will find themselves at a commercial disadvantage.

In addition, without net neutrality, businesses won't have much in the way of recourse against the conduct of broadband providers. Instead, broadband providers will have the power to carve internet access into fast lanes for online services with which they are affiliated or develop commercial relationships, while consigning all others to secondary roads with slower speed.

That is why more than 200 businesses and trade organizations have signed a letter to the FCC asking the agency to reconsider its plan to end net neutrality. Signatories include companies like Airbnb, Etsy, Foursquare, GitHub, Pinterest, Reddit, Shutterstock, Square, Tumblr, Twitter, and Vimeo, to name a few. And FarmLogs has also registered its concerns about eliminating net neutrality with the FCC, noting that the FCC's plan would stifle its ability to compete with bigger companies.

Of course, the best recourse for any business frustrated with internet traffic discrimination would be to switch broadband providers. However, the FCC's data demonstrate that more than half of U.S. households lack a choice of broadband provider. Without competition, there is no market-based constraint on discriminatory behavior, and businesses and consumers alike will be at the mercy of their broadband provider.

Moreover, once the FCC rolls back these rules, the Federal Trade Commission, a federal consumer protection agency with broad jurisdiction over businesses, is not well equipped to step into the fray. It lacks the general rule-making authority of the FCC. It has authority over unfair and deceptive

practices. But to evade review, all any broadband provider will have to do is add broadly-worded provisions about traffic management to the fine print in their service contract.

It's also costly and impractical for small businesses to report their internet access 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 these problems could be long gone.

Eliminating net neutrality rules at the FCC could have a big impact, especially for small businesses. By ensuring that broadband providers do not act as gatekeepers, these rules have helped sustain an open internet. This, in turn, has been a democratizing force for entrepreneurship across the country. It has changed the way we develop new businesses and, as FarmLogs demonstrates, it has even changed the family farm. As the FCC votes to unravel this much-needed openness, it should fully understand that neither competition nor the FTC offer a viable path forward for consumers or small businesses and start-ups.

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