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A(nother) chance for Congress net neutrality

BY EV EHRLICH, OPINION CONTRIBUTOR — 02/27/19 10:00 AM EST

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The death of bipartisanship in Washington is much lamented these days, but those weeping loudest are usually those who destroyed it. Its funeral will be attended by its assailants. Members of the "Gang" that produced a workable compromise on immigration walked away from their own deal; Senators who traded support for the tax bill for bipartisan fixes to health care were jilted by their Leadership. Is there any hope our leaders can cooperate to get things done, as voters demand?

Of course there is, and one low-hanging opportunity is net neutrality rules to protect competition and the free flow of traffic on the internet, an area where public fury is rising along with calls for the Congress to act.

For over a decade, partisans have clashed over "net neutrality" rules to prevent internet providers from blocking access to websites or restricting competition by giving some content access to a members only "fast lane." When the Courts questioned the FCC's ability to implement such a rule in 2015, the agency lurched to the left with a program to graft 1930s era telephone monopoly regulation onto the internet in order justify implementing neutrality rules, opening the door to "Mother-May-I" government control over new services, prices, and innovation online.

In response, as soon as they got in the door, President Trump's FCC veered even further to the right, tossing out the idea of internet regulation altogether in 2017, as if the public had no stake in this essential feature of modern life.

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But just like in other likely areas for bipartisanship – whether immigration, climate, health care, infrastructure, or whatever else – the public is way ahead of their feuding representatives. Over three quarters of the public support clear, responsible regulation in this area. They want to see us make "no blocking, no throttling, no anticompetitive prioritization" the law of the land, forever, full stop, and that requires a clean neutrality bill. Doing so would give liberals the core protections they've sought since Henry Waxman and Democratic FCC Chair Julius Genachowski pushed similar neutrality proposals back in 2010. And it would allow the Republicans in Congress to show voters they can get things done and enact sensible regulations on their own.

Only two groups would potentially oppose such an effort. Unsurprisingly, they're the far right and the far left.

Every time you tell business there's something they can't do, the far right starts to twitch. But on the issue of net neutrality, they twitch alone – even CEOs who would be affected by such a law agree the certainty and predictability of legislation is better for their businesses than the endless, see-sawing chaos we have now. And many hope it would be a springboard towards broader, national set of privacy and online safety rules, or such pro-competition measures as safe harbor reform – which makes companies more responsible for what happens on their networks – or even break-up of the tech monopolies, so that cornering one market – be it search or social networking – does not give a company the ability to corner another.

The far left will also complain – particularly the ideologues demanding Ma bell style Title II regulation of the Internet who want to make the Internet a public utility under government control, or even ownership. But that's considered extreme not just by both houses of Congress, but by Democrats as well. Many on the left, including labor and civil rights leaders, are skeptical that rules designed for the Depression era phone network will help close the digital divide, let alone usher in a world of driverless cars and mobile supercomputers.   Imagine if investment in the Internet was another part of an Infrastructure bill stalled on the Senate floor! It's hard to imagine how government would do anything but destroy the track record of the competitively built and managed broadband network — that has brought faster, more reliable, and more innovative service to the consumer every year.

Yes, we need to revive bipartisanship, and cleaning up Internet policy is a great place to start. Let's have less hand-wringing and more rolling up sleeves and move a new, bipartisan telecoms bill. It can be done.

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