

# New FCC Rule Targets ‘Digital Discrimination’

BY RYAN TRACY

WASHINGTON— Internet service providers will have their business practices scrutinized for “digital discrimination” based on income or race under a regulation that was adopted Wednesday by the Federal Communications Commission, raising legal risks for some of America’s most powerful companies.

The new rule lays the groundwork for the FCC to hold providers such as **AT& T** or Comcast liable if their actions “differentially impact consumers’ access to broadband”—intentionally or not. That will include decisions about network upgrades, pricing, marketing, maintenance and more.

The rule takes the FCC into a contentious debate over the government’s proper role in ensuring “equity” across the economy. The agency is siding with progressive groups who argue that stricter new regulation will help ensure universal access to a service essential to modern life, particularly in underserved communities of poor or minority Americans.

“Many of the communities that lack adequate access to broadband today are the same areas that suffer from long standing patterns of residential segregation and economic disadvantage,” said FCC Chair-woman Jessica Rosenworcel, a Democrat, after the agency approved the rule in a 3-2 party-line vote.

She described the rules as “fair and reasonable,” noting that the agency will “accept genuine reasons of technical and economic feasibility as valid reasons” for a company’s decisions.

Internet providers, and their Republican allies in Congress, oppose the measure, arguing it would chill investment— thus running counter to the Biden administration’s goal of expanding access—and go beyond antidiscrimination authority granted to the FCC in the 2021 Infrastructure Investment and Jobs Act.

“This is taking a massive regulatory sledgehammer to every part and every service

element of the broadband ecosystem,” said Jonathan Spalter, chief executive of the trade group USTelecom, whose members include AT& T and others. “It goes way beyond what Congress had insisted.”

The rule implements a provision in the 2021 infrastructure law telling the FCC to prevent “digital discrimination of access based on income level, race, ethnicity, color, religion, or national origin.” The language made it into the bipartisan law as part of a package that also included the largest-ever federal subsidies for expanding broadband service.

[Copyright \(c\)2023 Dow Jones & Company, Inc. All Rights Reserved. The Wall Street Journal](#)

[Powered by TECNAVIA](#)