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Internet broadband toll roads harm consumers

[E. Ken Winward \(http://authors/e-ken-winward\)](http://authors/e-ken-winward), [Standard-Examiner contributor \(http://category/authors/standard-examiner-contributor\)](http://category/authors/standard-examiner-contributor)

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Next to my office is Wisebird Bookery (Grounds for Coffee) and as part of my morning ritual, I usually stop in and at least say hello to the local denizens, grab something to drink and try to stick a couple of pieces into the communal jigsaw puzzle – a short, relaxing respite before a stressful day.

Yesterday as I walked in, I first encountered Bob, the toilet paper salesman and volunteer community chef, cussing out the WiFi signal and the slow Internet access while he was trying to do his work on his laptop. He was in the process of abandoning the WiFi for his cell phone but his Internet connection was still acting like it was running through mud. He proceeded to tell me how he longed for Europe, not for travel, but for the blazing Internet speed he had had there.

After Bob, I was confronted with the resident "free markets are the answer to all problems" libertarian, who is working on an Internet start-up company. I chided him for thinking that a free market is the answer when his entire company is built on the foundation of laws, regulations and government investment. Any Internet company has its foundation in ARPANET, the United States government funded network that became the Internet we love and loathe today. The United States intellectual property law allows the entire digital market out of its regulations and laws. Without the government and the laws, no patents, no copyrights, no protection to keep everything from falling into digital chaos.

Later I had to go to court where I struggled with my Internet connection. As with many businesses today, even my own legal practice takes place primarily in the realm of the computer and the Internet. Lawyers have forgone the yellow pad for the tablet.

After a long day at work, I returned home to find my 11-year-old continuing his rather constant harangue about the slow Internet speed at the house and how his games are lagging. When I was growing up the family conflicts were over what channel we got to watch on Monday night – Little House on the Prairie or Monday Night Football; now it is over everyone trying to do something different through one slow Internet connection.

Which brings us to the legal side of this week's column – The Federal Communications Commission was challenged by Verizon to have anti-discrimination and anti-blocking rules for broadband providers repealed. The FCC had rules in place that prevented broadband Internet providers from discriminating and blocking Internet access. Part of the problem is that the FCC is operating under a law passed in 1996 that has been antiquated by the advances in technology. Congress could simply pass a law that prevents discrimination and blocking, but it hasn't. The FCC has the right to regulate the broadband companies, but the Circuit Court of Appeals for the District of Columbia ruled on Jan. 14, 2014 that the current FCC "Open Internet Order" was not allowed.

To explain what is happening, think of the Internet as a large multi-lane interstate highway. The rules are in place so that everyone with a car was allowed to drive on the entire highway, both coming and going. Changes in the rules mean that Verizon or Comcast can turn the Internet into a toll road. If you want your company's website in the Internet fast lane, you'll need to get out your debit card and compete with Netflix, Amazon, Google, Facebook and Apple.

And if Netflix must pay to give its users fast access, you can easily guess what will happen to subscription fees for the end consumer. A worst case scenario would be your company would have to pay each separate Internet service provider so your website could even be accessed. (Dear libertarian at the coffee shop: This is what would happen if we allowed unregulated free market. Your Internet dreams are crushed. Once again, government intervention is the primary mechanism to keep the market competitive and open to new entrants.)

Because of the court ruling, this week the FCC announced that by May 15, it will begin to consider new rules "to ensure the Internet remains an open platform for innovation and expression." However, these new rules appear to allow broadband providers to create toll roads as long as they provide a bare baseline level of service. You can send your comments and thoughts to [openinternet@fcc.gov \(mailto:openinternet@fcc.gov\)](mailto:openinternet@fcc.gov) or upload your comments on the FCC Electronic Comment Filing System. I'd suggest that Bob emails them about his Europe experience and maybe note that the European Parliament earlier this month passed laws requiring net neutrality throughout the entire European Union.

As for me, I think I'll upload my column to the FCC site so I could have my voice heard – at least as long as my Internet connection will let me.

E. Ken Winward is an Ogden attorney. He can be reached at 801-392-8200 or creditcorrection@gmail.com.

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FCC rules to affect Internet

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