

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
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Opening Statement of Rep. Henry A. Waxman
Ranking Member, Committee on Energy and Commerce
“Subcommittee Markup of H.J Res. 37”
Subcommittee on Communications and Technology
March 9, 2011

Today we are considering a terrible bill under an even worse process.

The legislation we are considering would allow phone and cable companies to control what websites Americans can visit and what applications they can run.

This is a fundamentally bad idea that is opposed by the high-tech industry, consumer groups, religious groups, and labor unions. Even the big phone and cable companies that might stand to benefit the most from this legislation are not asking Congress to act.

American businesses want to see an end to the debate on how to preserve a free and open Internet. They are looking for certainty and clear rules that will allow them to focus on their business plans rather than their Washington offices.

At the hearing that just concluded, we heard from an economist, a technology entrepreneur, and a major broadband provider that the FCC's rules are reasonable and balanced. Although some wish the FCC had gone further, the FCC acted to provide basic rules that companies can follow, investors can rely on, and consumers can turn to for protection. Republicans couldn't get a single major broadband provider to testify today in opposition to the rules or in support of their legislation.

Yet, our Republican colleagues insist that we move forward with a resolution to invalidate the FCC's rules. That will create more uncertainty in the broadband marketplace. And it will stifle innovation and growth.

As bad as the substance is, the process is even worse.

The Republican majority is using the Congressional Review Act (CRA) to strike down the FCC's rules. This extraordinary process gives the majority the ability to deny us a vote on

amendments. That is fundamentally unfair. It means we will have no opportunity to propose changes that might improve this legislation.

Instead of an open and deliberative process, this bill is being rammed through under procedures that take away the minority's most basic rights.

If this legislation passes, consumers will not have a right to know whether their Internet connections are as fast as advertised. And they will not have a right to know how their provider is managing their data or charging them for certain services. Yet, we cannot even offer an amendment to restore these basic consumer protections.

This resolution also leaves deficiencies in other important policy areas, including public safety; cybersecurity; copyright protection; and protecting children online. But under this process, members may have no opportunity to fix them.

The majority does not need to use the CRA to block the implementation of the FCC's rules. If they feel that the FCC's authority over broadband should be more specifically delineated by Congress, they could bring before the Committee a piece of legislation designed to do just that.

We face no pressing time constraints that justify denying the minority the right to amend the bill. The FCC's order has yet to be published in the Federal Register and will not take effect for months. If the Senate considers this measure, it will not do so until Federal Register publication occurs. So it is unclear why we are rushing to use this extraordinary process over the unanimous objection of Democratic members.

This is no way to address policy concerns and no way to run a Committee.