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March 23, 2015

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**New York**

President Obama's plan to regulate the Internet went on tour in Washington last week. If politics worked like Broadway, the show would have closed on opening night.

Congress held three hearings—two more are planned this week—to surface new information on how the White House political machine bullied Federal Communications Commission Chairman Tom Wheeler. Mr. Wheeler had long opposed the reactionary step of regulating the Internet as a utility.

Nov. 10 was the turning point. The day began with Mr. Obama issuing a surprise video insisting on the most extreme regulation for the Internet, submitting it to laws written in the 1930s for Ma Bell. The same morning, a group of protesters swarmed Mr. Wheeler's house, blocked access to his car, and demanded that he obey the president.

The House Oversight and Government Reform Committee obtained Mr. Wheeler's email later that day complaining to his senior staff about being bludgeoned. With the subject line "FW: The President wants you to see this," forwarding Mr. Obama's

demands, Mr. Wheeler emailed: "FYI. Isn't it interesting: 1. The day of the [net neutrality] demonstration just happens to be the day folks take action at my house. 2. The video of POTUS just happens to end up on the same message as the video from POTUS. 3. The White House sends this email to their supporter list asking 'pass this on to anyone who cares about saving the Internet.' Hmmm."

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Hmmm indeed. Only the most extreme Washington advocacy groups had been lobbying to subject the Internet to Title II of the Communications Act of 1934. The FCC notice last year that it was considering net-neutrality rules barely mentioned this as a possible outcome.

The browbeaten Mr. Wheeler soon gave in, and the commission's Democratic majority adopted Obamanet. The FCC inspector general is now investigating the process, including the White House pressure. The last-minute insistence on Title II explains why the agency's 400 pages of regulations and interpretations are so slapdash, leaving many rules undefined and ensuring years of litigation.

While Mr. Wheeler was making his rounds, the chairman of the company that once led the charge for net neutrality was also in Washington, this time sounding the alarm about Obamanet. Speaking to the American Enterprise Institute, Google chairman Eric Schmidt sounded like a born-again deregulator when asked about Title II regulation of the Internet. "We have benefited from government essentially staying out of the Internet," he said. "I am worried that we are now on a path where we are starting to regulate an awful lot of things on the Internet. . . . I am generally in favor of less regulation no matter what on the Internet." He concluded: "I have a strong opinion that the best way to have net neutrality is competition."

This explains why Mr. Schmidt last year called the White House to oppose Title II. Supporters of net neutrality thought they would get a breakup of the broadband duopoly of cable and telecom companies, but Obamanet delivers the opposite. Title II utility regulations could end up blocking Google Fiber from competing and disrupting Comcast, AT&T and other traditional providers.

At the hearings, legislators from both parties grilled Mr. Wheeler about the costs to smaller and rural broadband providers of complying with Obamanet. City-run broadband providers—including the one in Cedar Falls, Iowa, that Mr. Obama touted on a January visit—objected that Title II "risks serious harm to our ability to fund and deploy broadband without bringing any concrete benefit for consumers." Another email obtained by Congress showed that even Harry Reid, the Senate Democratic leader, had opposed Obamanet. His chief of staff emailed Mr. Wheeler in May: "Spoke again last night with the [White House] and told them to back off Title II. Went through once again the problems it creates."

The grave sin of Obamanet is ending the era of permissionless innovation on the Internet. FCC bureaucrats now will decide what is "just and reasonable" online. The Wall Street Journal last week reported that HBO, Showtime and Sony want to offer their shows on the Web but fear regulators will prevent broadband providers from managing smooth delivery of their video. Heavy-handed government would thus help Netflix, a regulation advocate, evade new competition.

Large majorities of both parties have opposed regulating the Internet since the 1990s. Bipartisan questioning of Mr. Wheeler offers a ray of hope that Congress will craft an alternative to Obamanet. An update to the communications law would deliver what most people understand as "net neutrality": no discrimination based on content, reasonable network management, and competition instead of entrenched incumbents. – ***Wall Street Journal***