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5 on 45:

On Trump's approach to broadband policy

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PITA: You're listening to 5 on 45 from the Brookings Podcast Network: analysis and commentary from Brookings experts on today's news regarding the Trump administration.

LEVIN: I'm Blair Levin, a nonresident fellow at the Metropolitan Policy Project at the Brookings Institution. I also advise Wall Street firms on the implications of policy and markets, and previously I helped write the 2010 United States national broadband plan.

President Trump promised to make America great again, we should all want America to be great, but what are the foundations of that greatness? One answer is certain. In the 21st century, information economy. America cannot be great without great, world-leading broadband. In the last eight years the Obama administration adopted a number policies designed to achieve that goal. The Trump administration likely shares that goal, but its approach is likely to be very different than the prior administration in at least four ways.

First, the government will change how it views the competitive landscape for broadband and therefore the appropriate government response. Under Obama, policy reflected a view that in both the wireless and wired broadband markets, as well as in the markets for key inputs such as set-top boxes and business services, there wasn't sufficient competition. The FCC, acting on that view, looked for ways to increase competition, particularly from non-incumbents and smaller players. The Trump administration is likely to view the wireless market as very competitive, and the wired broadband market as sufficiently competitive, and therefore will both reverse some of the Obama decisions and further reduce regulation for incumbents from the pre-Obama baseline.

Second, the government will reduce the range of its oversight. Going forward, the FCC will reduce its own options in overseeing internet service providers. The most anticipated change will be to repeal the FCC's February 2015 net neutrality decision. There's some multi-dimensional chess involved here. The courts, the FCC, and the Congress will all be involved, and each will premise their actions on the feedback loop affected by the actions of others. Ultimately, I believe that Congress will re-write the law around the principles of no blocking, no throttling, and no paid prioritization, while also cutting back on the FCC's current broad powers to constrain other potentially anticompetitive behaviors.

Third, expect a change in the center of federal gravity from the FCC to the Congress. Since congress passed the 1996 Telecommunications Act, the FCC has been the center of gravity for most major policy actions affecting the sector. Now the power will move back to Congress, where three potential pieces of legislation could impact deployment and other concerns in the sector. The most important is the tax bill. The critical policy question is, what do the companies do with the extra after tax income that the legislation would create? Do they invest in next-generation networks, or use it for other purposes like share buybacks? A second piece of legislation is an infrastructure bill. Many members of Congress have urged the president to include broadband. While this bill could stimulate a lot of new networks, I suspect that any support will be limited to very rural areas. A third bill would address traditional telecommunications issues such as spectrum, FCC process, and net neutrality, as discussed before. The legislation is likely to adopt a view of a limited need for government intervention in presumably competitive markets.

Fourth, and in some ways the most important from both a market and consumer perspective, there will be a wave of mergers and a change in how the government does merger reviews. Wall Street expects a new wave of merger announcements involving large cable, wireless and other network companies in the second quarter of this year. Each deal will be evaluated on its specific facts, but predicting the government's approach is a bit tricky in light of President Trump's promise to block the AT&T-Time Warner Entertainment network deal, break up Comcast-NBC-Universal, and bring in antitrust action against Amazon.

He is unlikely to do any of these three things, and I expect that the Trump Justice Department and FCC will be significantly friendlier to mergers than the Obama ones were, but the totality of the upcoming mergers will certainly challenge a president who said we already have too much power concentrated in the hands of too few.

So, will these four changes lead to world-leading broadband? Well, as Yogi Berra once usefully reminded us: "Predictions are tricky, particularly about the future." And here, technology and market forces will matter at least as much as policy. But one prediction is 100% certain, America will not be great if it does not have great broadband.