



The Daily Dish

The FCC and Digital Discrimination

DOUGLAS HOLTZ-EAKIN | OCTOBER 31, 2023

As [laid out](#) by Jeffrey Westling, the Federal Communications Commission (FCC) will soon vote on an order that would prohibit digital discrimination. To sharpen my thinking on the topic, I reviewed the dictionary definition of discrimination:

Discrimination: treating a person or particular group of people differently, especially in a worse way from the way in which you treat other people, because of their race, gender, sexuality, etc.

Ok, that did not seem so complicated. But, as it turns out, that is not what the FCC order requires. Instead, it is based on the notion of “disparate impact” – a standard that looks at outcomes, not treatment. In effect, the order would prohibit policies or practices that led to differential outcomes in the access to broadband across incomes, race, ethnicity, color, religion, or national origin. This is a terrible idea.