



Policy Ideas to Help Americans During Coronavirus Pandemic

The [coronavirus pandemic](#) reveals just how unprepared our nation is to deal with emergency situations. As Americans adopt "[social distancing](#)," shifting to telework, online courses, and even video doctor visits, while limiting in-person interaction with others, our nation must adapt. To do so, we need to enhance our communications and online services through smart policy changes, many of which should stay in place after things return to "normal," or become the "new normal." All of these recommended policies protect consumers by ensuring they have the tools they need to function, especially during uncertain times. We cannot force Americans to choose between their families, a paycheck, and an education -- or getting sick and spreading the disease.

Immediate Policy Solutions

Broadband

- **Increase Speeds Where Feasible:** As Americans use more videoconferencing and streaming, where feasible, all customers should receive a speed upgrade to the minimum necessary to support social distancing through telepresence applications. This means supporting two-way video without excessive buffering. At a minimum, this would mean upgrading speeds to the Federal Communications Commission's definition of broadband (25/3 Mbps), but where feasible, this should be symmetric (25/25 Mbps) since telepresence requires two-way video. While some rural broadband providers may not have technology to support these increases, another limit on rural speeds is the high cost of interconnection and backhaul in rural areas. Interconnecting and backhaul carriers should expand their interconnection capability and reduce charges to rural internet service providers to permit enhanced speed and increased usage of telepresence during the crisis.
- **Prohibit Data Caps, Throttling, and Overage Fees:** [Data caps](#) can prevent consumers from engaging in all of the online activity necessary to continue to live life during this pandemic. Consumers should not be forced to choose between a video visit with their doctor or allowing kids to finish their homework to avoid large overage fees or internet throttling. Congress should prohibit providers from capping data, throttling speeds, or charging overage fees. Congress should also require data collection at the FCC about

the impact of lifting data caps on network management and customer decisions in order to inform the long-term policy decisions around data caps.

- **Prevent Communications Shutoffs:** Before the coronavirus, Americans relied on the internet for *nearly every* facet of daily life. But now, Americans rely on the internet for *every* facet of daily life. Congress should not allow communications providers to shut off phone or internet service to consumers because of an inability to pay their bills during this pandemic. Doing so could shut consumers out of society entirely.
- **Help Americans Afford Broadband through a Tax-Free Subsidy for Communications Services:** Currently, some people may be hesitant to stay home because they can't afford home internet and therefore need to leave home to engage in activities they could do remotely. Furthermore, as the crisis continues and the economy slows, even those who can afford internet access today may lose access tomorrow. Even if providers agree not to shut off access during the crisis, these individuals may suspend their service for fear of accumulating hundreds of dollars in overdue fees. To keep people home, we must make it possible for them to work, educate their children, and otherwise participate in society by helping individuals afford broadband throughout this crisis. Congress should create a direct subsidy for broadband internet so that consumers can practice "social distancing."
- **Reclassify Broadband as Title II:** In 2017, the FCC under Chairman Pai reclassified broadband as a Title I information service instead of a Title II common carrier service. Reclassifying broadband as a Title II common carrier would ensure that the FCC can do whatever it takes to promote universal service during these uncertain times -- and in the future. This includes preventing and managing broadband outages and enforcing any COVID-19 related regulations.
- **Utilize E-Rate to Loan Wi-Fi Hot Spots and Devices:** Many consumers may have difficulty connecting to the internet because they lack affordable service, or they lack a device with which to connect. Schools and libraries should be allowed to use E-Rate funding to loan Wi-Fi hot spots and computers, tablets, and cell phones to the members of their communities who need them.
- **Require Increased Broadband Data Collection During the Crisis:** Data can help drive smart decision making. The COVID-19 crisis is a stress test for every part of the broadband ecosystem, from the Wi-Fi access point through the "last mile" to the applications used for telework and distance learning. Broadband providers should share with the FCC data collected at each potential chokepoint in the broadband ecosystem: the Wi-Fi access point/Wi-Fi congestion, last-mile congestion and efficiency, and congestion at interconnection points. In addition, ISPs should provide information about the number of customers served, what packages customers subscribe to, and how increased data limits impact service quality so that the FCC can identify network weaknesses and where there is a critical need for improvement.

Privacy

- **Protect our [Geolocation Data](#)/Close the “App Gap”:** Especially during a crisis, a cell phone is a necessary lifeline. Americans should not need to make their highly sensitive location data available for exploitation as the cost of staying in touch with emergency services at all times. While federal law prevents cell phone network operators from disclosing geolocation data to anyone other than emergency services, mobile phone operating system providers and mobile applications can disclose this data to anyone. Geolocation data can reveal a person’s politics, sexual preferences, religion, and other sensitive characteristics. Congress must prevent our geolocation data from being exploited, even as the country works to prevent the spread of the coronavirus.

Intellectual Property

- **Support [Controlled Digital Lending](#):** As Americans are working and learning from home, they need remote access to books, videos, and other knowledge resources. [Controlled Digital Lending](#) allows libraries to connect with and serve their patrons even when natural disasters, public health emergencies, and mass closures disrupt normal operations. To promote and protect Controlled Digital Lending, Congress should provide certainty by codifying an explicit copyright exemption for libraries to digitize and digitally lend their collections. Half of U.S. students are in poverty and this is especially important to those students so that they have equal access to books and other reading materials online. These families may not be able to afford e-book subscriptions to Amazon but they can borrow e-books from their public library.
- **Waive DMCA Liability for Repairing Health and Safety Systems:** When millions of lives depend on medical and communications infrastructure such as ventilators, institutions and individuals *must* have a right to repair these systems quickly and at low cost. The anti-circumvention provisions of the [Digital Millennium Copyright Act](#) make it illegal to circumvent “digital locks” that keep non-licensed technicians, repair people, and end users from installing replacement parts, correcting software bugs, and performing critical maintenance on systems. The private companies that install these digital locks have neither the capacity nor the field presence to respond to a surge in demand caused by a major public health crisis. If healthcare systems and public safety entities cannot repair or replace their own equipment -- a situation that [has happened in Italy](#), and prompted [threats of legal action](#) -- the law does not allow them to fix it themselves. Instead, [they must wait for a licensed technician](#), for an indeterminate amount of time, at a non-negotiable rate, in order to bring life-or-death equipment back online. It is absolutely critical that providers be able to fix their own systems without fear of civil liability.

News Media Policy

- **Supporting Locally Owned Media Outlets:** As this pandemic changes from day to day and hour to hour, it's more important than ever that residents have access to media coverage. Local media is in a particularly good position to show the news that matters most to a community, including directives from local governments. However, fewer locally owned media outlets can continue to afford to exist. Congress should dedicate [funding to support local media](#).

Platforms and Competition

- **Protecting Small Business on Digital Platforms:** With brick-and-mortar shopping coming to a halt in many regions, small local businesses may want to sell online to stay afloat. Yet we have almost no regulations protecting retailers from the dominant platforms they rely on to reach their customers. Two ideas Public Knowledge has been advocating for include [non-discrimination](#) (such as prioritizing search results), to make sure platforms don't self-preference or allow undisclosed pay-for-placement, and [business data privacy protections](#), to make sure platforms don't use companies' sensitive business data unfairly. In the short term, Congress can specify the types of discrimination and data use that is prohibited, with the Federal Trade Commission enforcing along with private rights of action.
- **Liability for Paid Content:** Misinformation spreads online a number of ways. While [Section 230](#) is important to ensure that platforms can host user-generated content and speech, it is not intended to prevent the regulation of a platform's business practices. Nor do the same considerations about allowing user speech apply in the context of advertisements, or where the platform pays a user for content. At a minimum, Congress should remove any liability shields for platforms for advertising and monetized content so that civil cases can be brought against a platform for running ads for which there might otherwise be liability. This could better incentivize platforms to prevent COVID-19-related scams and misinformation to spread through paid channels.
- **Combating Misinformation on the Pandemic and Enhancing Access to Reliable Information:** Congress should require that platforms collect examples of COVID-19-related scams, misinformation, and hoaxes, and put them in a searchable database available to law enforcement, the FTC, and researchers. Knowing what misinformation is out there and where it is coming from is crucial to fighting this pandemic and getting the most accurate information out to the public. Additionally, social media sites and others should highlight sources that have proven to be reliable based on official credentials and expert consensus, e.g., Twitter accounts of World Health Organization epidemiologists at epicenters.
- **Coordination with Wireless Emergency Alert System:** During this pandemic, it is essential that the American public have access to emergency alerts. Congress should require platforms to coordinate with the national Wireless Emergency Alert system to amplify national alerts and use geotargeting to amplify regional alerts.

Long-Term Policy Solutions

Broadband

- **Increase Minimum Speeds to at Least 100 Mbps:** As Americans begin to stay home in large numbers and engage in high-bandwidth activities like streaming videos and videoconferencing, the current FCC minimum speed for broadband of 25/3 Mbps will no longer cut it. In order to account for multiple family members on multiple devices engaging in high-bandwidth activities simultaneously, Congress must require the FCC to raise its minimum speeds to at least 100 Mbps, with provisions that the speeds continue to increase at set intervals to account for evolving technology.
- **Backup Power for Cell Towers and VOIP Phones:** If the power goes out, cell towers and landlines powered by VOIP (voice over internet protocol) would cease to work. This would be particularly troubling as Americans are relying on phone service to conduct virtual meetings and to stay in contact with friends and family members they're unable to physically visit. To avoid this type of catastrophe in the future, ISPs should be required to provide a backup generator at all cell towers. Encouraging backup generators is not sufficient as broadband providers are unlikely to spend money for emergency preparedness if they do not have to. Moreover, Congress should mandate that providers give consumers backup power for their VOIP phones so that those Americans can continue to use their landlines during power outages.
- **Support Network Resiliency:** As our nation needs broadband and other communications services to function during this pandemic and future pandemics, Congress should require the FCC to set a mandatory framework to ensure that providers invest in network maintenance and emergency preparedness. This includes requiring wireless providers to abide by the [Wireless Resiliency Cooperative Framework](#) and [Wireless Emergency Alerts](#). Moreover, providers who do not invest in the reliability and resiliency of their networks should be fined. Finally, Congress should pass the [RESILIENT Networks Act](#), which requires pre-planned coordination agreements so that providers can serve each other's customers during and after an emergency when their networks are not operating.
- **Require Service to All Americans:** In many urban areas, broadband providers digitally redline low-income neighborhoods out of upgrades to their networks and the same speed and quality offerings as in high-income neighborhoods. Congress should require the FCC to enforce equitable service to geographic service areas so that all Americans have service during a pandemic.
- **Provide Planning Grants to Help Localities Deploy Broadband:** Localities are often in the best position to deploy broadband to their communities. Congress should provide planning grants to help localities examine their resources and unique challenges. For example, some localities may have pre-existing resources (such as unused sewers or spectrum licenses) that can be used to quickly deploy broadband. Other localities may lack data about where broadband is available. Providing planning grants to localities will

ensure that during the next pandemic or disaster, everyone across the nation will have access to broadband.

- **Provide Broadband Infrastructure Funding:** Not everyone in the nation has access to broadband. Although the FCC and the Department of Agriculture currently provide funding to deploy rural broadband, these programs are not structured to get us to full universal service. Congress can do more to support deployment. By providing funding for infrastructure that can be used by multiple providers instead of funding a single provider, Congress can get the most bang for its buck. Congress should also require buildout requirements with these funds to prevent redlining which leaves some consumers in an area without connectivity.
- **Open 5.9 GHz and 6 GHz to Unlicensed Spectrum Use:** For nearly all Americans, the first link in the broadband chain is a Wi-Fi connection. Many devices Americans rely on have no other way to connect to the internet. But as the demand for connected devices increases exponentially, the existing Wi-Fi bands have become crowded and congested. The FCC has before it proceedings to open up two new spectrum allocations for Wi-Fi and other unlicensed spectrum uses, one at 5.9 GHz and the other at 6 GHz, that would dramatically increase the speed and capacity of Wi-Fi available to all Americans. This will greatly enhance the ability of people to work and learn from home, or use bandwidth intense telemedicine applications.
- **Require Increased Data Collection:** In the event of another crisis, policymakers won't have adequate data about our nation's broadband to make smart policy decisions. Moving forward, internet service providers should provide the FCC with data about the price of service, the actual speeds consumers experience, and how long outages last. Data about prices can help the FCC understand where service is and is not affordable, while details about speed show if consumers are getting what they are paying for. This is particularly important as consumers are turning to more high-bandwidth activities. Finally, outage details show the FCC whether our nation's communications networks are reliable during emergencies -- or not. All of this data should also be made available to the public to enable them to make good decisions when selecting providers and services.
- **Reinstate Net Neutrality Regulations:** In 2017, the FCC under Chairman Pai [rolled back](#) the 2015 net neutrality regulations which prevented ISPs from blocking websites, throttling internet speeds, or allowing for paid prioritization. Ensuring that broadband providers can't unduly profit by blocking or slowing competing streaming services when consumers are stuck at home with little entertainment or access to healthcare or education is particularly unconscionable and would prevent broadband from being truly useful. To prevent that in the future, Congress should direct the FCC to reinstate the 2015 net neutrality regulations.

Privacy

- **Close the [HIPAA Privacy Gap](#):** HIPAA does not currently cover technology like health apps, direct-to-consumer genetic tests, and other consumer-focused health technology, like wearable fitness monitors. During this pandemic, it has become more difficult than ever to interact with a doctor or hospital. Consumers are relying on these technologies to assess their risk and make medical appointments which means consumers are giving up their health data without adequate protection. Congress should give HHS the authority to regulate this growing industry to ensure that all Americans' health data is kept private and secure.
- **Pass Comprehensive Federal Privacy Legislation:** During this crisis, more Americans than ever are working, learning, seeking medical care, and shopping exclusively online. Unfortunately, this is all occurring without privacy protections in place. Although preventing carriers from disclosing precise geolocation data will protect consumers in the short term, comprehensive privacy legislation will ensure that consumer privacy is safe during future pandemics and emergencies. We urge [Congress to pass comprehensive federal privacy legislation](#) to protect the privacy of all Americans.

Platforms

- **Protect Small Business on Digital Platforms Through Non-Discrimination and Business Data Privacy:** After the crisis, many small local businesses may not have the financing to return to brick-and-mortar selling. For them, these protections from dominant platforms must remain permanent. Both a [non-discrimination](#) and a [business data privacy](#) rule are needed on an ongoing basis. For the long term, it would be better for Congress to delegate rulemaking authority to a new expert authority within an existing agency, or to a new agency focused on digital platforms.

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