UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to executive session for consideration of Calendar No. 321, the nomination of Joseph Balash to be an Assistant Secretary of the Interior. I further ask that there be 1 hour of debate on the nomination, equally divided in the usual form; and that following the use or yielding back of time, the Senate vote on confirmation with no intervening action or debate; and that if confirmed, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to legislative session for a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NET NEUTRALITY

Mr. LEAHY. Mr. President, next week, the Federal Communications Commission, FCC, will consider a proposed rule, that, if approved, will end net neutrality as we know it and will threaten the foundation of a free and open internet. Net neutrality is the simple proposition that internet service providers should treat all internet traffic the same; they should not be able to exploit their power to charge for preferred treatment, allowing big corporations to dominate the internet.

The Chairman of the FCC, Ajit Pai, wants the FCC to undo its protections for net neutrality. His proposed ruling is perversely styled as ''Restoring Internet Freedom,'' when in fact it would do the opposite. It would allow internet service providers to decide which websites will be privileged and which will be throttled or even blocked. Make no mistake: This will mean that the big firms that can afford the ''fast lane'' will be protected, while harming consumers, startups, and potentially even freedom of speech online.

Alarmingly, Chairman Pai has decided to ignore millions of comments submitted by individuals across the country, citing concerns that they are not ''unique.'' As a Member of Congress accountable to my constituents, this is a particularly offensive posture. Unique or not, comments and concerns submitted to my office by Vermonters are treated with the same weight and value as any other. Until the FCC fully and meaningfully considers the more than 21.7 million comments it has received about this proposed rule, it should not proceed with this vote.

A recent New York Times article by Farhad Manjoo, entitled, ''The Internet Is Dying. Repealing Net Neutrality Hastens That Death,'' lays out clearly why the FCC's proposed repeal of net neutrality will bring the open internet one giant leap closer to becoming a corporate playground. If, as expected, Chairman Pai jams through his proposed rule change next week, it will be clear that he has done so to the benefit of a few deep-pocketed corporations and to the detriment of everyone else who relies on the internet to support commerce, communication, and community. I ask unanimous consent that the article by Mr. Manjoo be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 29, 2017]

THE INTERNET IS DYING, REPEALING NET NEUTRALITY HASTENS THAT DEATH

(By Farhad Manjoo)

Sure, technically, the internet still works. Pull up Facebook on your phone and you will still see your second cousin's baby pictures. But that isn't really the internet. It's not the open, anyone-can-build-it network of the 1990s and early 2000s, the product of technologies created over decades through government funding and academic research, the network that helped undo Microsoft's stranglehold on the tech business and gave us upstarts like Amazon, Google, Facebook and Netflix.

Nope, that freewheeling internet has been dying a slow death—and a vote next month by the Federal Communications Commission to undo net neutrality would be the final pillow in its face.

Net neutrality is intended to prevent companies that provide internet service from offering preferential treatment to certain content over their lines. The rules prevent, for instance, AT&T from charging a fee to companies that want to stream high-definition videos to people.

Because net neutrality shelters start-ups—which can't easily pay for fast-line access—from internet giants that can pay, the rules are just about the last bulwark against the complete corporate takeover of much of online life. When the rules go, the internet will still work, but it will look like and feel like something else altogether—a network in which business development deals, rather than innovation, determine what you experience, a network that feels much more like cable TV than the technological Wild West that gave you Napster and Netflix.

If this sounds alarmist, consider that the state of digital competition is already pretty sorry. As I've argued regularly, much of the tech industry is at risk of getting swallowed by giants. Today's internet is lousy with gatekeepers, tollbooths and monopolists.

The five most valuable American companies—Amazon, Apple, Facebook, Google and Microsoft—control much of the online infrastructure, from app stores to operating systems to cloud storage to nearly all of the online ad business. A handful of broadband companies—AT&T, Charter, Comcast and Verizon, many of which are also aiming to become content companies, because why not—provide virtually all the internet connections to American homes and smartphones.

Together these giants have carved the internet into a historically profitable system of fiefs. They have turned a network whose very promise was endless innovation into one stuck in mud, where every start-up is at the tender mercy of some of the largest corporations on the planet.

Many companies feel this shift. In a letter to Ajit Pai, the F.C.C. chairman, who drafted the net neutrality repeal order, more than 200 start-ups argued this week that the order ''would put small and medium-sized businesses at a disadvantage and prevent innovative new ones from even getting off the ground.'' This, they said, was ''the opposite of the open market, with a few powerful cable and phone companies picking winners and losers instead of consumers.''

This was not the way the internet was supposed to go. At its deepest technical level, the Internet was designed to avoid the central points of control that now command it. The technical scheme arose from an even deeper philosophy. The designers of the internet understood that communications networks gain new powers through their end nodes—that is, through the new devices and services that plug into the network, rather than the computers that manage traffic on the network. This is known as the ''end-to-end'' principle of network design, and it basically explains why the internet led to so many more innovations than the centralized networks that came before it, such as the old telephone network.

The internet's singular power, in its early gold-rush days, was its flexibility. People could imagine a dazzling array of new uses for the network, and as quick as that, they could build and deploy them—a site that sold you books, a site that cataloged the world's information, an application that let you ''borrow'' other people's music, a social network that could connect you to anyone.

You didn't need permission for any of this stuff; some of these innovations ruined traditional industries, some fundamentally altered society, and many were legally dubious. But the internet meant you could just put it up, and if it worked, the rest of the world would quickly adopt it.

But if flexibility was the early internet's promise, it was soon imperiled. In 2003, Tim Wu, a law professor now at Columbia Law School (he's also a contributor to The New York Times), saw signs of impending corporate control over the growing internet. Broadband companies that were investing great sums to roll out faster and faster internet service to Americans were becoming wary of running an anything-goes network.

Some of the new uses of the internet threatened their bottom line. People were using online services as an alternative to paying for cable TV or long-distance phone service. They were connecting devices like Wi-Fi routers, which allowed them to share their connections with multiple devices. At the time, there were persistent reports of broadband companies seeking to block or otherwise frustrate these new services; in a few years, some broadband providers would begin blocking new services outright.

To Mr. Wu, the broadband monopolies looked like a threat to the end-to-end idea that had powered the internet. In a legal journal, he outlined an idea for regulation to preserve the internet's equal-opportunity design—and hence was born ''net neutrality.''

Though it has been through a barrage of legal challenges and resurrections, some form of net neutrality has been the governing regime on the internet since 2005. The new F.C.C. order would undo the idea completely; companies would be allowed to block

or demand payment for certain traffic as they liked, as long as they disclosed the arrangements.

At the moment, broadband companies are promising not to act unfairly, and they argue that undoing the rules would give them further incentive to invest in their broadband capacity, ultimately improving the internet.

Brian Hart. an F.C.C. spokesman, said broadband companies would still be covered by antitrust laws and other rules meant to prevent anticompetitive behavior. He noted that Mr. Pai's proposals would simply return the network to an earlier, pre-network-neutrality regulatory era.

''The internet flourished under this framework before, and it will again,'' he said.

Broadband companies are taking a similar line. When I pointed out to a Comcast spokeswoman that the company's promises were only voluntary—that nothing will prevent Comcast from one day creating special tiers of internet service with bundled content, much like the way it now sells cable TV she suggested I was jumping the gun.

After all, people have been predicting the end of the internet for years. In 2003, Michael Copps, a Democratically appointed commissioner on the F.C.C. who was alarmed by the central choke points then taking command of the internet, argued that ''we could be witnessing the beginning of the end of the internet as we know it.''

It's been a recurrent theme among worriers ever since. In 2014, the last time it looked like net neutrality would get gutted, Nilay Patel, editor of the Verge, declared the internet dead (he used another word for ''dead''). And he did it again this year, anticipating Mr. Pai's proposal.

But look, you might say: Despite the handwringing, the internet has kept on trucking. Start-ups are still getting funded and going public. Crazy new things still sometimes get invented and defy all expectations; Bitcoin, which is as Wild West as they come, just hit $10,000 on some exchanges.

Well, O.K. But a vibrant network doesn't die all at once. It takes time and neglect; it grows weaker by the day, but imperceptibly, so that one day we are living in a digital world controlled by giants and we come to regard the whole thing as normal.

It's not normal. It wasn't always this way. The internet doesn't have to be a corporate playground. That's just the path we've chosen.

HONDURAS

Mr. LEAHY. Mr. President, I want to alert all Senators to the situation in Honduras. Those of us who care about Central America have watched the election for Honduras's next President with increasing alarm. It has been more than a week since November 26, when the people of Honduras cast their votes. Since then, repeated delays and suspicious behavior, which suggests either incompetence or fraud, by the Supreme Electoral Tribunal, TSE, that has been tallying the ballots, have incited large public demonstrations.

Late last week, the government of President Juan Orlando Hernandez suspended constitutional rights and imposed a 10-day, 6 p.m. to 6 a.m. curfew. Several protesters, including a 19-year-old girl, have reportedly been shot and killed by Honduran troops, and hundreds more have been arrested. Salvador Nasralla, the main opposition candidate, called for a new election and reportedly urged the Honduran police and military to disobey orders of their commanders to fire on demonstrators.

Even before the Honduran people went to the polls, the prospects for a free, fair, and peaceful election faced many challenges. The most obvious point of contention is that President Hernandez is seeking a second term, since until recently the Honduran Constitution had been interpreted to strictly limit Presidents to a single 4-year term.

Ironically, in 2009 former President Manuel Zelaya was forced from power by a coalition of military officers, businessowners, and conservative politicians, including Hernandez, after they accused Zelaya of using a popular referendum on a proposed constitutional convention to extend his own rule.

Zelaya's ouster was initially labeled a coup by the U.S. State Department, but it was not long before the United States accepted the result and resumed sending economic and military aid to the government of President Porfirio Lobo. During the next 3 years, the influx of illicit drugs and the incidence of violence, including assassinations of journalists and other civil society leaders, increased dramatically, and Honduras became among the most violent countries in the world.

After Hernandez became president of the National Congress, he and his National Party replaced the Supreme Court with justices intended to support their political agenda. In 2013, Hernandez was declared President of Honduras after an election fraught with reports of vote buying and threats and assassinations of political opponents.

Two years later, the same Supreme Court ruled that he could run for a second term, paving the way for last week's election. Just 8 years after former President Zelaya was pushed out for allegedly proposing that the Honduran people vote on the question of a second term, President Hernandez had consolidated his control by replacing the justices of the Supreme Court, appointing the TSE, maintaining a majority in the Congress, and using the state media to drown out his critics. It was widely predicted that he would coast to victory.

President Hernandez's government, in addition to becoming increasingly autocratic, has been dogged by accusations of pervasive corruption.

For these reasons and because of the opaque and bizarre conduct of the TSE during the vote tallying process, it is perhaps not surprising that the situation has deteriorated to the point of becoming a national crisis of confidence in the integrity of Honduras's democracy.

Contrary to past practice, the TSE did not issue early results until the day after the polls closed. At that time, it announced that, with 57 percent of the vote counted, Mr. Nasralla, a former TV sports journalist, was leading by 5 percentage points. This indicated the possibility of an historic upset, and while based on past practice the final count was expected the next day, the process of tallying the votes dragged on behind closed doors with no further announcements.

While Nasralla and his supporters celebrated and the third-placed candidate, Luis Zelaya of the Liberal party, conceded, President Hernandez and his allies in the press insisted that he would come out on top once the rural votes were counted.

The TSE also said the rural vote count was delayed, and on Wednesday, after a long silence, the TSE indicated that Nasralla's lead had started to shrink, but the press reported that no technical reason was apparent to explain the delay as the results from all polling stations were reportedly transmitted electronically as soon as the polls closed.

As time dragged on, suspicions of fraud escalated among Nasralla's supporters, and last Wednesday afternoon, the TSE said its computer system had inexplicably ceased functioning for 5 hours. Then on Wednesday night, the TSE reported that President Hernandez was ahead by several thousand votes, which triggered protests by Nasralla's supporters, some of them reportedly throwing rocks and lighting fires in the streets, who were met by troops firing tear gas and live bullets.

According to press reports, the opposition is questioning ballots from 5,300 polling places and has called for a recount of ballots from three rural departments. Yesterday morning, after only a partial recount, the TSE announced its final tally in favor of President Hernandez by just 1.49 percent, a gap of 52,333 votes.

The process has been so lacking in transparency, so fraught with irregularities and inexplicable delays, and coupled with reports of excessive force by the Honduran police and military against peaceful protesters, it is increasingly obvious that the TSE's announcement made a bad situation worse. There is too much suspicion of fraud and too much distrust.

On Saturday, I asked the U.S. Embassy in Tegucigalpa three simple but important questions about the delays, the TSE's tally of the votes, and the reports of shootings of protesters. It is late Tuesday afternoon, and I have yet to receive answers. This lack of responsiveness in such a time of crisis is troubling, and I hope it is not a new standard.

Yesterday evening, the OAS issued a statement that ''the tight margin of the results, and the irregularities, errors and systemic problems that have surrounded this election do not allow the Mission to hold certainty about the results.'' There were also reports that large numbers of Honduran police officers, many of whom have longstanding grievances, are refusing orders to use force against the protesters. Earlier today, I was informed that there may