Obama’s Technology and Innovation Policy:

4 Years Later

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President Obama’s first term is drawing to a close. As the end of his term nears, we took a look back at Candidate Obama’s 2008 Technology and Innovation Policy.[[1]](#footnote-0) There was some debate among our team about what counted as a success. Putting a policy in place? Spending money? Seeing results? We choose to define success as completing all steps required of one to pass the rule (so not defending the new rules from court battles) and seeing measurable progress on the issue, if applicable.

## Obama’s Successes:

### Net Neutrality

Under the Obama administration, the Federal Communications Commission (FCC) published rules that protected network neutrality and the openness of the internet. These rules ban Internet Service Providers (ISPs) from limiting lawful content, applications, and services, including content of their competitors.[[2]](#footnote-1) The FCC rules (1) prevent ISPs, such as Comcast, from using fees to determine which websites receive preferential treatment on their networks, (2) give the FCC power to engage in disputes about how ISPs manage their networks and thus provide more transparency, and (3) give the FCC the authority to investigate ISPs suspected of breaking network neutrality rules.[[3]](#footnote-2) The FCC rules have been highly controversial and contested by communications companies such as Comcast, Verizon, and MetroPCS.[[4]](#footnote-3) Republicans in Congress also protested against the FCC rules and moved to overturn them. However, Obama threatened to veto any bill designed to overturn the FCC rules and the bill was rejected by the Senate.[[5]](#footnote-4)

Net neutrality is important to protecting innovation in this country. Without it, the ISPs would turn the Internet into an unequal playing field. ISPs would use their market power to provide preferential treatment to their affiliated departments and companies - this monopoly leveraging would not be in consumers’ best interests. In addition, ISPs could charge high fees to new entrants, keeping them out of the business and protecting existing large companies. ISPs could also impinge on the freedom of speech with these changes, because certain political actors might not be able to pay for preferential treatment.

### Patent Law

Obama has kept his promise to reform the patent system with the passage of the America Invents Act. First, it transitions the country to a “first-to-file” system from an outdated “first-to-invent” system, providing ownership clarity in the patent-granting process. This measure also provides adequate funding by granting the patent office the right to set and keep its own fees. Before this act was passed, the patent office received a set amount of money from Congress regardless the number of applications it receives in a given year[[6]](#footnote-5).

It streamlines the patent process to reduce patent issuance time from the three-year average and to diminish backlog[[7]](#footnote-6). It plans to increase the number of patent offices from one to four and recruit technical experts for application processing[[8]](#footnote-7). Processing applications faster will encourage inventors and investors to develop and introduce the products quicker and thus be more competitive in the international market[[9]](#footnote-8).

Additionally, the bill creates a post-grant review process where inventors and companies to contest the validity of a patent for nine months, therefore reducing the number of legal battles. Current legal battles can be very expensive. Going through a patent lawsuit can be disastrous to a company and the threat of a lawsuit often forces smaller companies to give in. A more streamlined process would allow more companies to focus on innovation.

## Obama’s Shortcomings

On the other hand, there are certain areas where Obama’s policies have not yet taken hold, no progress has been made made, or possibly even negative progress has been made.

### Broadband

Obama set clear goals regarding next-generation broadband in America, but failed to achieve the majority of them. Despite the FCC redefining broadband speeds, the new standard of 768 kbps does not meet Obama’s claim of fulfilling 21st century demands. This speed is far below international leaders like South Korea and Sweden, who boast internet speeds of triple and double this standard, leaving the United States 26th in worldwide rankings of broadband service.[[10]](#footnote-9)

Even after investments made by the Universal Service Fund, broadband access is available to only 95% of Americans, the same percentage as when Obama took office in 2008.[[11]](#footnote-10) Critics also point out that Obama has failed to auction wireless spectrum as promised. Though Congress approved such an auction in February 2012, the FCC has not yet taken action.[[12]](#footnote-11) Doubts remain that the resulting freedom of 500 MHz of spectrum will not be enough to satisfy American demand.[[13]](#footnote-12)

Finally, broadband adoption is stagnant, remaining at around 68%, suggesting a failure of providing “adequate training and other supplementary resources” as Obama promised.[[14]](#footnote-13) The recently minted US Ignite project to make broadband construction faster and cheaper is a promising step, but in order to deploy next-generation broadband, the next President must raise the standards of broadband speed in America, educate citizens on broadband adoption, and work to free enough spectrum for public use.

### Media Ownership Consolidation

In Obama’s report to the nation, he also outlined his desire to prevent consolidation of media ownership and promote its diversity, but unfortunately on this issue his administration has not been entirely successful. He sought to use his influence of the office of US President to oversee the FCC and enact this philosophy. However, as the NCAACO (National Coalition of African American Owned Media) reported, the Obama administration failed to stop one of the largest media mergers in US history between Comcast and NBC universal, a $30 billion deal[[15]](#footnote-14).

The FCC admitted that the deal could impose risks “...to the development of innovative online video distribution services.”[[16]](#footnote-15). Free Press, a non-profit media reform group, accused Obama of going back on his promise of media ownership diversity. While it is true, Obama did not cast the votes of the FCC commissioning board (at 4 to 1 vote in favor of allowing the merger)[[17]](#footnote-16), as the executive of the executive branch, there is certainly leverage he could have made use of to prevent this action. As the US President, he appoints FCC commissioners - officers that make the decision on allowing such deals to go through or not. However, Obama failed to use this power quickly enough to make a difference.

Later that year, in November 2011, Obama appointed two new commissioners to the board, one Democratic and one Republican. Their stances on similar large mergers is unknown and no doubt they will play an important role in the future on media diversity ownership. However it seems just a little too late to preserve Obama’s promise of media ownership diversity as the Comcast / NBC universal merger is large enough to warrant that failure. While this large event represents failure in our analysis, it is simply the combination of four distinct failures on Obama’s part leading to this consequence. These failures include: failure to introduce or promote legislation to empower the FCC to support media ownership diversity, failure to pressure the current FCC commissioners to act accordingly, failure to appoint new FCC commissioners before this large merger, and finally a failure to use the presidential “bully pulpit” to raise press awareness of the issue.

## Conclusion

Overall, President Obama has made progress on his Innovation and Technology policies. It is easier to more favorably rate policies where the stated intention was just to spend money or pass a rule. It is much harder to have a visible impact on the nation. In fact, many of these policies have yet to have an identifiable impact on the nation. It might take years before we are able to identify and attribute an impact on the country as a whole.

In a similar fashion, we found broadband and media ownership diversity to be lacking in Obama’s efforts so far. Clearly governance is a complicated issue and the president’s role is certainly limited. However, considering his office is the least limited of perhaps any one single person, it is reasonable to point out areas of deficiency in policy, especially those he pledged to fix or improve.

1. <http://obama.3cdn.net/780e0e91ccb6cdbf6e_6udymvin7.pdf> [↑](#footnote-ref-0)
2. <http://www.pcworld.com/article/240505/fcc_publishes_net_neutrality_rules.html> [↑](#footnote-ref-1)
3. [http://www.pcmag.com/article2/0,2817,2406672,00.asp](http://www.pcmag.com/article2/0%2C2817%2C2406672%2C00.asp) [↑](#footnote-ref-2)
4. <http://www.reuters.com/article/2011/11/09/us-usa-internet-obama-idUSTRE7A86SK20111109> [↑](#footnote-ref-3)
5. <http://latimesblogs.latimes.com/technology/2011/11/senate-net-neutrality-vote-.html> [↑](#footnote-ref-4)
6. <http://articles.cnn.com/2011-09-16/politics/obama.patent.reform_1_patent-office-first-to-file-system-patent-reform?_s=PM:POLITICS> [↑](#footnote-ref-5)
7. <http://articles.latimes.com/2011/sep/16/news/la-pn-obama-patent-20110916> [↑](#footnote-ref-6)
8. <http://www.uspto.gov/news/pr/2012/12-40.jsp> [↑](#footnote-ref-7)
9. <http://www.whitehouse.gov/the-press-office/2011/09/16/president-obama-signs-america-invents-act-overhauling-patent-system-stim> [↑](#footnote-ref-8)
10. <http://www.howtogeek.com/95659/internet-speed-by-country-infographic/> [↑](#footnote-ref-9)
11. <http://www.forbes.com/sites/larrydownes/2012/08/23/how-the-fcc-sees-broadbands-95-success-as-100-failure/4/> [↑](#footnote-ref-10)
12. <http://mashable.com/2012/08/29/republicans-obama-broadband/> [↑](#footnote-ref-11)
13. <http://news.cnet.com/8301-1035_3-57488618-94/wireless-spectrum-what-it-is-and-why-you-should-care/> [↑](#footnote-ref-12)
14. <http://www.washingtonpost.com/blogs/ezra-klein/wp/2012/08/29/whatever-happened-to-obamas-goal-of-universal-broadband/> [↑](#footnote-ref-13)
15. <http://www.thewrap.com/tv/column-post/fcc-slammed-media-ownership-diversity-19655> [↑](#footnote-ref-14)
16. <http://www.nytimes.com/2011/01/19/business/media/19comcast.html> [↑](#footnote-ref-15)
17. <http://news.cnet.com/8301-30686_3-20128424-266/president-obama-nominates-new-fcc-commissioners/> [↑](#footnote-ref-16)