



Obama Tries Using FCC to Raise Taxes to Fund School Broadband Initiative

By: Michael Tennant – August 16, 2013

In yet another attempt to change the law in a manner of dubious constitutionality, President Barack Obama is pressuring the Federal Communications Commission (FCC) to hike a telecommunications fee to help pay for high-speed Internet access in schools.

Obama's proposal, known as ConnectEd, was announced in June but went largely unnoticed because the story of the National Security Agency's widespread surveillance of Americans was breaking at the time.

In a June 6 speech at Mooresville Middle School in Mooresville, North Carolina, Obama said, "Today, I am directing the Federal Communications Commission ... to begin a process that will connect 99 percent of America's students to high-speed broadband Internet within five years."

Obama claimed that about 20 percent of American students have access to high-speed Internet in the classroom while 100 percent of South Korean students have such access.

"In a country where we expect free Wi-Fi with our coffee," he asked, "why shouldn't we have it in schools?"

There is, of course, a big difference between free Wi-Fi at Starbucks and "free" Wi-Fi in schools under Obama's plan: Starbucks pays for the network itself out of the proceeds of its sales to willing consumers; Obama would pay for school networks by forcibly extracting the money from cellphone users.

According to the *Washington Post*, the White House estimates the program will cost \$4 billion to \$6 billion, which "could work out to about \$12 in fees for every cellphone user over three years," after which the fee hike is supposed to end. But considering how many other supposedly temporary taxes have become more or less permanent — a telephone tax instituted to pay for the Spanish-American War remained in effect, with occasional respites, for the next 104 years and still has not been fully repealed — there is good reason to fear that the Obama phone tax would not go quietly into the night.

White House Deputy Press Secretary Josh Earnest told reporters that the president believes the extra dollars taken from cellphone users are "a pretty worthy trade-off" for getting faster Internet access to classrooms. That's easy for Obama to say because it's not his money. And while it's true that a four- or five-dollar-per-year charge by itself isn't likely to be a great burden to most people, all those fees and taxes do add up. "In New York City, the ubiquitous mobile devices already carry 10 separate city, state and federal fees and charges — and that doesn't include sales taxes," noted the *New York Post*.

Obama is asking the FCC to increase the E-Rate fee, a component of the Universal Service Fund

directed at bringing Internet access to public schools and libraries, and to use that to fund broadband upgrades. “None of this,” he told the Mooresville students, “requires an act of Congress”; and that’s just the way Obama likes it.

“You would think that connecting schools to the information superhighway would be a pretty noncontroversial topic, particularly when it’s something that could be accomplished through a relatively modest investment,” Earnest said during his Wednesday press conference.

“Unfortunately, we haven’t seen a lot of action in Congress, so the president has advocated and administrated the unilateral action to get this done. We’re not going to wait for Congress to act.” (Earnest denied that this amounted to an “end-run” around Congress, eliciting chuckles from the assembled journalists.)

Not everyone agrees with this approach.

“Most consumers would balk at higher costs, higher phone bills, and I sure hope that this is not part of the equation that ultimately comes out,” said Rep. Fred Upton (R-Mich.), chairman of the House Energy and Commerce Committee. “If they pursue that course, there’s going to be pushback, absolutely.”

“Using the FCC as a way to get around Congress to spend money that Congress doesn’t have the political will to spend — I think that’s very scary,” Harold Furchtgott-Roth, a Republican former FCC commissioner, told the *Washington Post*. “Constitutionally, it’s Congress that decides how federal funds should be spent.”

In fact, the political pitfalls of the policy are so great that Obama didn’t dare mention it until he was safely reelected, reported the *Post*. “A senior administration official said that if the idea had come up during the presidential campaign, it probably would have been abandoned because of the political risk,” especially the danger that Obama would be (correctly) viewed as raising taxes on the middle class in direct contrast to his 2008 campaign vow not to do so.

There was also concern among some White House officials “about the perception that they would try to unduly influence the” nominally independent FCC, wrote the paper. But when the president says he’s “directing” the FCC to implement his plan and when two of the three sitting FCC commissioners, both appointed by Obama, issue statements in favor of ConnectEd, that perception is hard to avoid. Obama has nominated two more people to fill the remaining vacancies on the commission, so it is likely he will get what he wants.

Even assuming Congress were to agree to the fee increase and there were no moral or constitutional qualms about robbing cellphone users to pay for school Wi-Fi, ConnectEd would still be a bad idea for the simple reason that E-Rate itself is a bad idea.

The fact that the FCC “set[s] the levels of taxes on telecommunications, then hand[s] out the money it produced by taxing,” argued the Cato Institute’s Jim Harper, amounts to “taxation without representation.” Moreover, he observed, “the program has grown over the years, and it has been plagued by allegations of corruption and misuse.”

These sentiments were echoed by the lone dissenting FCC commissioner, Ajit Pai, who told an American Enterprise Institute audience in July that “the E-Rate program has a waste, fraud, and abuse problem.” E-Rate, he said, is a typical government program: slow, plodding, tangled in red tape, and abounding in “misplaced funding priorities” and “bad incentives.” The FCC can’t even dole out all the revenue the program currently takes in “because of missed deadlines and

bureaucratic missteps,” he averred.

Pai, nominated to a Republican position on the FCC by Obama, said a 2010 FCC survey found that 80 percent of responding schools were either “completely” or “mostly” satisfied with the speed of their Internet connections. Giving them free money to upgrade to faster connections would “force schools to skew their spending decisions in order to help us meet an arbitrary national target,” he maintained. Where a school might, under current conditions, choose to spend its money getting all its classrooms connected to the Internet, it might instead decide to pour all that money into upgrading a single classroom to a high-speed connection in order to secure funding under Obama’s initiative, Pai suggested.

None of this is likely to sway Obama, whose senior advisors told the *Post* that ConnectEd is “one of the biggest potential achievements of Obama’s second term.” That it can be implemented unilaterally only makes it that much more appealing. “We are here to do big things,” he told his staff, “and we can do this without Congress.”

Unfortunately, he’s probably right.