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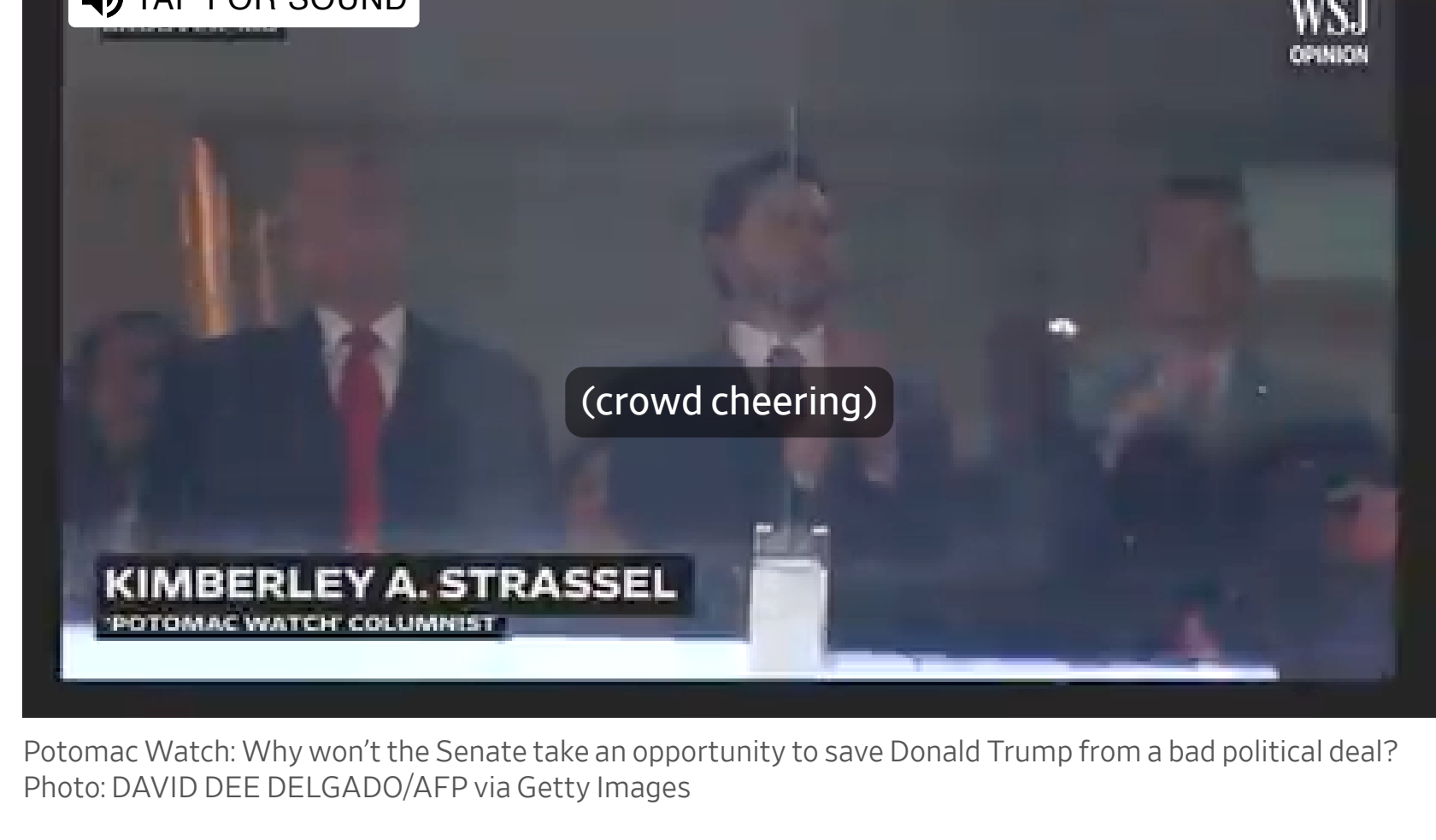
Good Riddance to Net Neutrality

A federal appeals court smacks down Biden's FCC regulators.

By The Editorial Board Follow

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The courts are slowly catching up with the many illegal Biden Administration rules, and on Thursday the Sixth Circuit Court of Appeals cleaned up after the Federal Communications Commission's net-neutrality rule. Credit an assist from the Supreme Court.

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Democrats on the FCC last year resurrected the Obama-era regulation that classified broadband providers as common carriers under Title II of the 1934 Communications Act. Chair Jessica Rosenworcel claimed the rule was needed to protect national security, but the real goal was to give bureaucrats power to micromanage broadband pricing and investment.

The Sixth Circuit panel ruled 3-0 that the FCC exceeded its statutory authority, citing the Supreme Court's

6-3 landmark *Loper Bright Enterprises v. Raimondo* decision last year. *Loper Bright* overturned the Court's *Chevron* doctrine, which required judges to defer to an agency's interpretations of a supposedly vague law as long as it was "reasonable."

The D.C. Circuit Court of Appeals had upheld a similar Obama net-neutrality rule based on *Chevron*. But now "we no longer afford deference to the FCC's reading of the statute," Judge Richard Allen Griffin explained in his opinion. The panel held that broadband providers are properly considered an "information service," and as such can't be regulated as common carriers.

That should have been clear all along. But Democrats invoked a decades-old law so they could expand political control over the internet. The resulting regulatory uncertainty was one reason investment fell after the Obama rule. After Mr. Trump's first-term FCC Chair Ajit Pai repealed the Obama rule, investment increased.

The Sixth Circuit decision means the next Trump FCC won't have to go through a drawn-out rule-making to repeal it. It also means that Democrats in the future will have to pass legislation to restore it. "Applying *Loper Bright* means we can end the FCC's vacillations," Judge Griffin noted. Hear, hear.

The Sixth Circuit decision illustrates how ending *Chevron* will make it harder for regulators to exceed their authority. It could also bring more certainty to businesses as regulations won't shift based on arbitrary interpretations of law. This a victory for self-government and the private economy over the willful administrative state. There will be more, thanks to *Loper Bright*.

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Jessica Rosenworcel, chairwoman of the Federal Communications Commission (FCC), in September. PHOTO: TING SHEN/BLOMBERG NEWS

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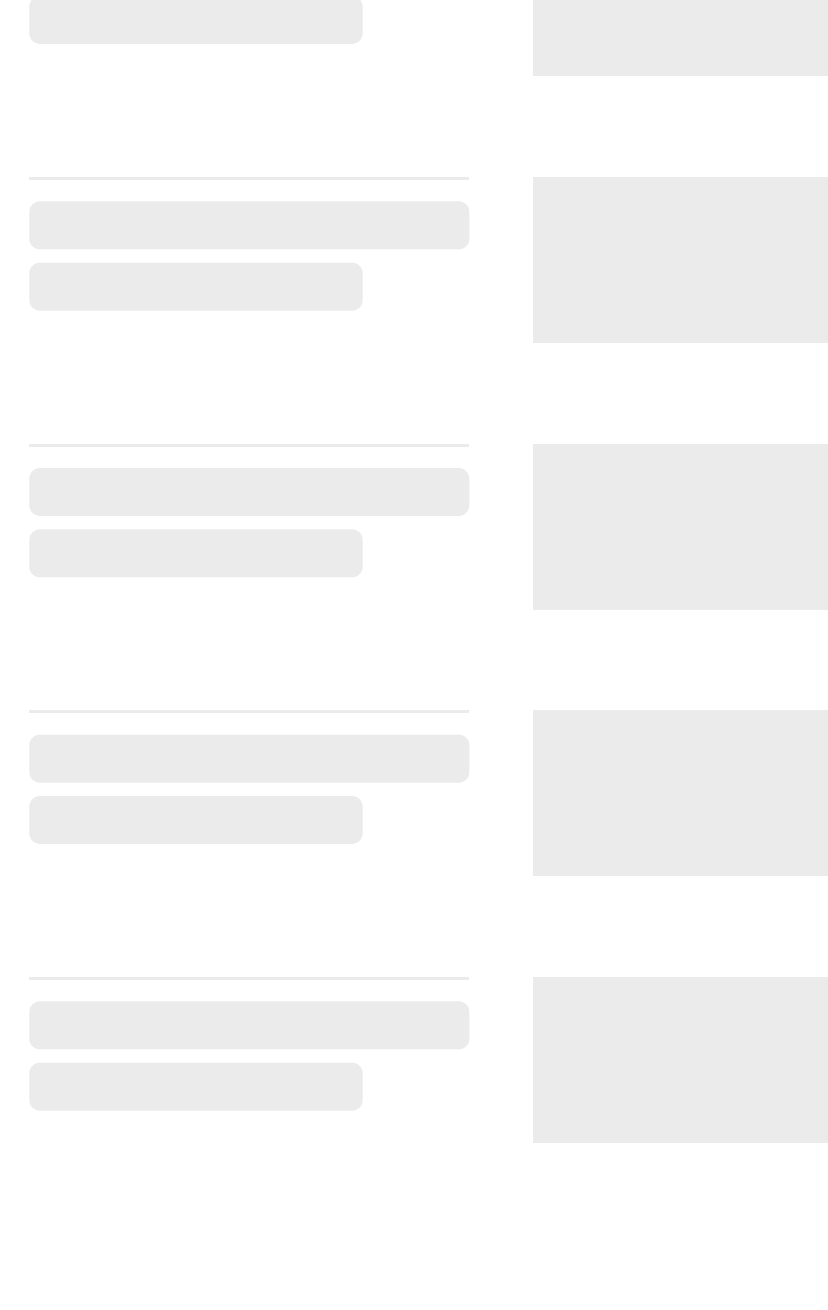
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