THE CONCEPT

• The Internet is the preeminent 21st century engine for innovation and the economic and social benefits that follow.

• Key to Internet’s success: consumers and innovators at edges of the network can create and determine success or failure of content, apps, services and devices — without permission from those that operate the network.

• Control over last mile access to end users gives broadband Internet access providers the incentive and ability to act as gatekeepers.

• FCC has role in ensuring Internet remains open by regulating broadband access providers.
TIMELINE OF MAJOR EVENTS

2002
- Cable Modem Order

2004
- Powell’s “four freedoms”

2005
- Wireline BB Order
- Internet Policy Statement
- Madison River decree

2008
- Comcast BitTorrent Order

2010
- Comcast v. FCC
- Third Way NOI
- Open Internet Order

2014
- Verizon v. FCC
- Open Internet NPRM

FCC also used:
- Merger conditions (Comcast/NBCU still in effect)
- License conditions (Upper 700 MHz C Block)
CURRENT LEGAL CLASSIFICATION OF BROADBAND INTERNET ACCESS SERVICE

Title I Service

- Cable modem (2002)
- BPL (2006)
- DSL (2005)
- Wireless (2007)
## OPEN INTERNET ORDER (2010)

<table>
<thead>
<tr>
<th>No Blocking</th>
<th>No Unreasonable Discrimination</th>
<th>Transparency</th>
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<tbody>
<tr>
<td><strong>Fixed:</strong> services, content, applications, devices</td>
<td><strong>Fixed only</strong>&lt;br&gt;<strong>Case-by-case to determine “reasonableness”</strong>&lt;br&gt;<strong>Skeptical of paid priority agreements</strong></td>
<td><strong>Fixed and Mobile</strong>&lt;br&gt;<strong>Accurate info on network management practices, performance, and commercial terms</strong></td>
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<tr>
<td><strong>Mobile:</strong> websites, competing voice/video telephony</td>
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Subject to reasonable network management
OPEN INTERNET ORDER (2010): SECTION 706 “VIRTUOUS CIRCLE” OF INNOVATION

Innovations by edge providers

Network improvements

Increased demand for broadband
VERIZON V. FCC (D.C. CIR. 2014)

In favor of FCC:
• Section 706 is an independent grant of authority to the FCC.
• FCC reasonably interpreted section 706 as empowering it to regulate broadband access providers.
• Substantial evidence supporting “virtuous circle” justification for rules.

In favor of Verizon:
• Court finds that both no blocking and nondiscrimination rules impose per se common carrier obligations.
• FCC may not impose such obligations, given prior decision to classify broadband access as an information service.
Today, there are no legally enforceable rules by which the Commission can stop broadband providers from limiting Internet openness.

FOLLOWING JAN. 2014 COURT DECISION: WHAT CONSUMERS FACE TODAY

- No Blocking
- No Unreasonable Discrimination
- Transparency
THE FCC’S RESPONSE: NPRM (MAY 15, 2014) BEGINS PROCESS OF CLOSING THE GAP

“What is the right public policy to ensure that the Internet remains open? This [NPRM], and the comment process that follows, will turn on this fundamental question.”
QUESTIONS AROUND SCOPE OF RULES

Source: Level 3 Ex Parte (May 5, 2014) in GN Docket 14-28
PROPOSAL: ENHANCE TRANSPARENCY RULE

Examples:

• More disclosure of performance – e.g., download speeds, latency, packet loss

• Information about sources of congestion

• Method of disclosure:
  • Standardized label to ease comparison shopping
  • Specifics on data caps/allowances, tethering restrictions

• Separate disclosures for consumers and edge providers
PROPOSAL: ADOPT NEW CONDUCT RULES

No Blocking

Enforceable Legal Standard
PUBLIC COMMENT AND DISCUSSION

This rulemaking begins the process by putting forth a proposal, asking important and specific questions, and opening the discussion to all Americans. We look forward to hearing feedback on all these approaches.

• NPRM sets ~120-day comment cycle
  • Initial comments: July 18, 2014.
  • Reply comments: Sept. 15, 2014.
  • Largest ever public response to FCC rulemaking (> 3.7 million filings)

• Open Internet Roundtables
  • Streamed live at www.fcc.gov/live; archived at www.fcc.gov/events
  • Questions submitted via Roundtables@fcc.gov or via Twitter (#FCCRoundtables)
EXAMPLES OF ISSUES RAISED IN COMMENTS

- Paid Prioritization
- Legal Authority
- Reasonable Network Management
- Mobile Broadband
- Enforcement
Open Internet

Ensuring that every American has access to open and robust high-speed Internet service.