



NEWS

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See *MCI v. FCC*, 515 F.2d 385 (D.C. Cir. 1974).

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FCC LAUNCHES BROAD RULEMAKING ON HOW BEST TO PROTECT AND PROMOTE THE OPEN INTERNET

Seeks Public Input over the Next Four Months to Find Most Viable Approach

Washington, D.C. – The Federal Communications Commission today launched a rulemaking seeking public comment on how best to protect and promote an open Internet. The Notice of Proposed Rulemaking adopted today poses a broad range of questions to elicit the broadest range of input from everyone impacted by the Internet, from consumers and small businesses to providers and start-ups.

The Internet is America’s most important platform for economic growth, innovation, competition, free expression, and broadband investment and deployment. The Internet has become an essential tool for Americans and for the growth of American businesses. That’s because the Internet has been open to new content, new products and new services, enabling consumers to choose whatever legal content, services and applications they desire.

The FCC has previously concluded that broadband providers have the incentive and ability to act in ways that threaten Internet openness. But today, there are no rules that stop broadband providers from trying to limit Internet openness. That is why the Notice adopted by the FCC today starts with a fundamental question: “What is the right public policy to ensure that the Internet remains open?”

The FCC proposes to rely on a legal blueprint set out by the United States Court of Appeals for the District of Columbia Circuit in its January decision in *Verizon v. FCC*, using the FCC’s authority to promote broadband deployment to all Americans under Section 706 of the Telecommunications Act of 1996. At the same time, the Commission will seriously consider using its authority under the telecommunications regulation found in Title II of the Communications Act. In addition, the Notice:

- Proposes to retain the definitions and scope of the 2010 rules, which governed broadband Internet access service providers, but not services like enterprise services, Internet traffic exchange and specialized services.
- Proposes to enhance the existing transparency rule, which was upheld by the D.C. Circuit. The proposed enhancements would provide consumers, edge providers, and the Commission with tailored disclosures, including information on the nature of congestion that impacts consumers’ use of online services and timely notice of new practices.
- As part of the revived “no-blocking” rule, proposes ensuring that all who use the Internet can enjoy robust, fast and dynamic Internet access.

- Tentatively concludes that priority service offered exclusively by a broadband provider to an affiliate should be considered illegal until proven otherwise.
- Asks how to devise a rigorous, multi-factor “screen” to analyze whether any conduct hurts consumers, competition, free expression and civic engagement, and other criteria under a legal standard termed “commercial reasonableness.”
- Asks a series of detailed questions about what legal authority provides the most effective means of keeping the Internet open: Section 706 or Title II.
- Proposes a multi-faceted process to promptly resolve and head off disputes, including an ombudsperson to act as a watchdog on behalf of consumers and start-ups and small businesses.

Action by the Commission May 15, 2014, by Notice of Proposed Rulemaking (FCC 14-61). Chairman Wheeler and Commissioner Clyburn with Commissioner Rosenworcel concurring and Commissioners Pai and O’Rielly dissenting. Chairman Wheeler, Commissioners Clyburn, Rosenworcel, Pai and O’Rielly issuing statements.

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