

**University of Massachusetts Amherst**

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**From the Selected Works of Laura Quilter**

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July 10, 2014

## FCC Comments Workshop

Laura Quilter, *University of Massachusetts - Amherst*



Available at: [https://works.bepress.com/laura\\_quilter/36/](https://works.bepress.com/laura_quilter/36/)



# FCC COMMENTING WORKSHOP

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A quick primer for the layperson, interested in participating in FCC regulation of TV, radio, wireless, and the Internet

Laura Quilter

July 10, 2014

# FCC

- Federal Communications Commission
- Established by Communications Act of 1934
- Next significant update: Telecommunications Act of 1996
- Regulates communications by radio, TV, wire, satellite, & cable
- 6 goals : broadband, competition, spectrum, media, public safety, homeland security
- Relations with other agencies : FTC (Federal Trade Commission), Antitrust Division of Dept. of Justice

# FCC Activities

- Broadcast licensing – renewals for “public interest, convenience, or necessity”
- Media ownership concentration – e.g., Comcast/Time Warner and AT&T/DirecTV. FCC will review; DOJ will likely also review; public comment will be solicited.
- “fairness” rules (defunct as of 1987)
- “indecentcy”
- Standards
- Spectrum allocation
  - “pirate radio” -> “low-power FM”
  - Spectrum auctions

# FCC Rulemakings & Comments

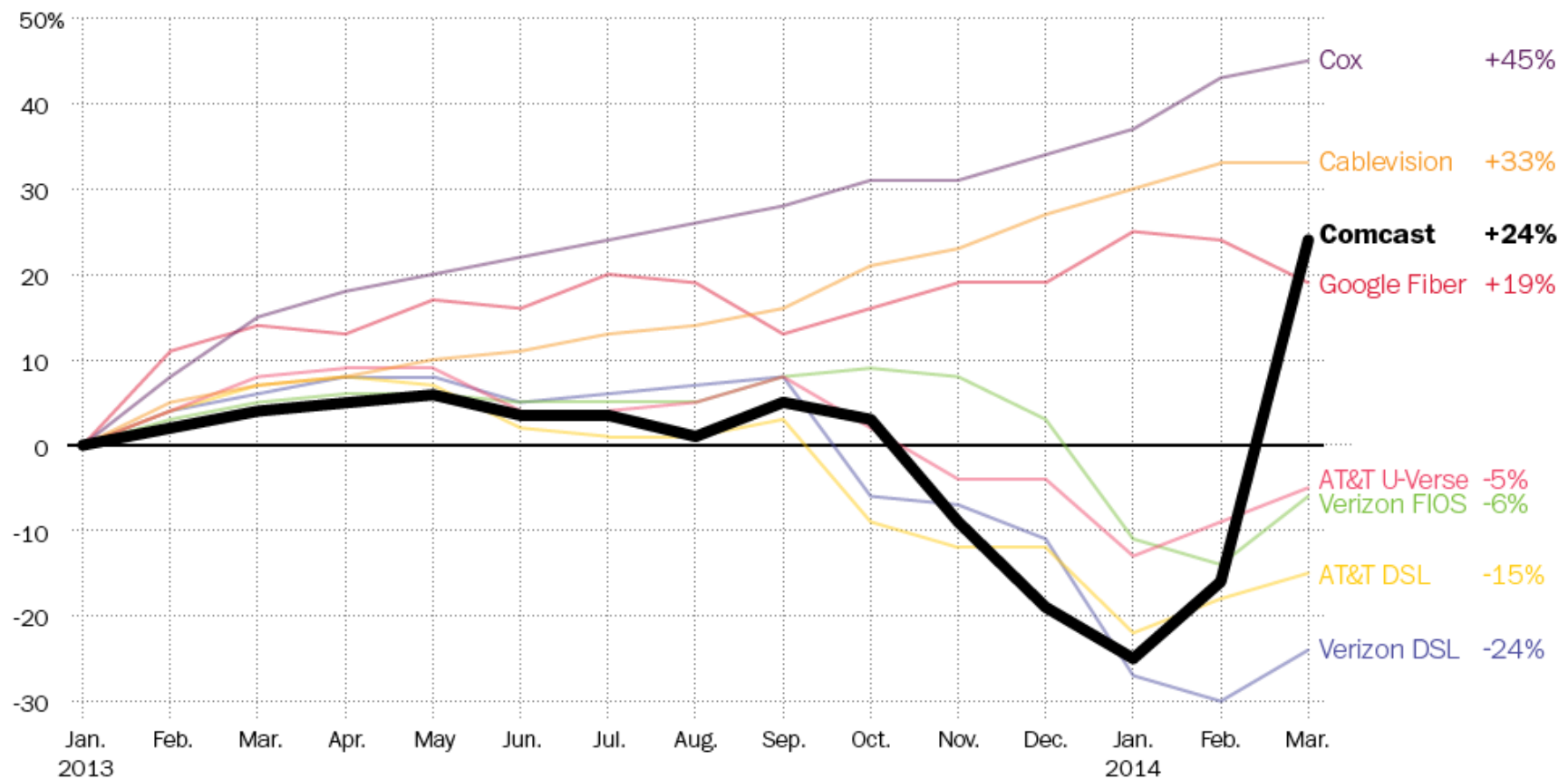
- As with any regulatory agency, proposed rules, or actions, are drafted by the agency (the FCC), published in the *Federal Register*, and then reviewed, revised, and ultimately finalized. There may also be public hearings, in DC or regionally, with identified witnesses, and an opportunity for public comment.
- Different kinds of proceedings:
  - Network neutrality / reclassification – NPRM 14-28. Open comments.
  - Comcast/Time Warner merger ... AT&T/DirecTV merger. Committees for review; will take evidence & comments.
- Public comments solicited ... and considered!
- fun fact: FCC's public comments process one of the earliest to be Internet-based

# Net Neutrality Rulemaking

- Net neutrality : Principle that ISPs and governments should not discriminate or differentially charge based on type of content, user, application, etc. The opposite, *closed Internet*, permits proprietary standards and intermediaries to discriminate (favor or disfavor) some content, users, or protocols/services. Compare *phone service* (a common carrier, forbidden to discriminate/prefer).
- Recent examples : 2007-2010 Comcast throttling BitTorrent. After *Verizon v. FCC*, Comcast started slowing down Netflix traffic to Comcast's Internet subscribers; Netflix then had to shell out a lot of money to reach subscribers on the same terms as other providers.
  - Harms competition
  - Double-charges consumers (because netflix will pass costs back)
  - Permits "censorship"
  - Enables overselling (e.g., airlines selling more seats than they have)

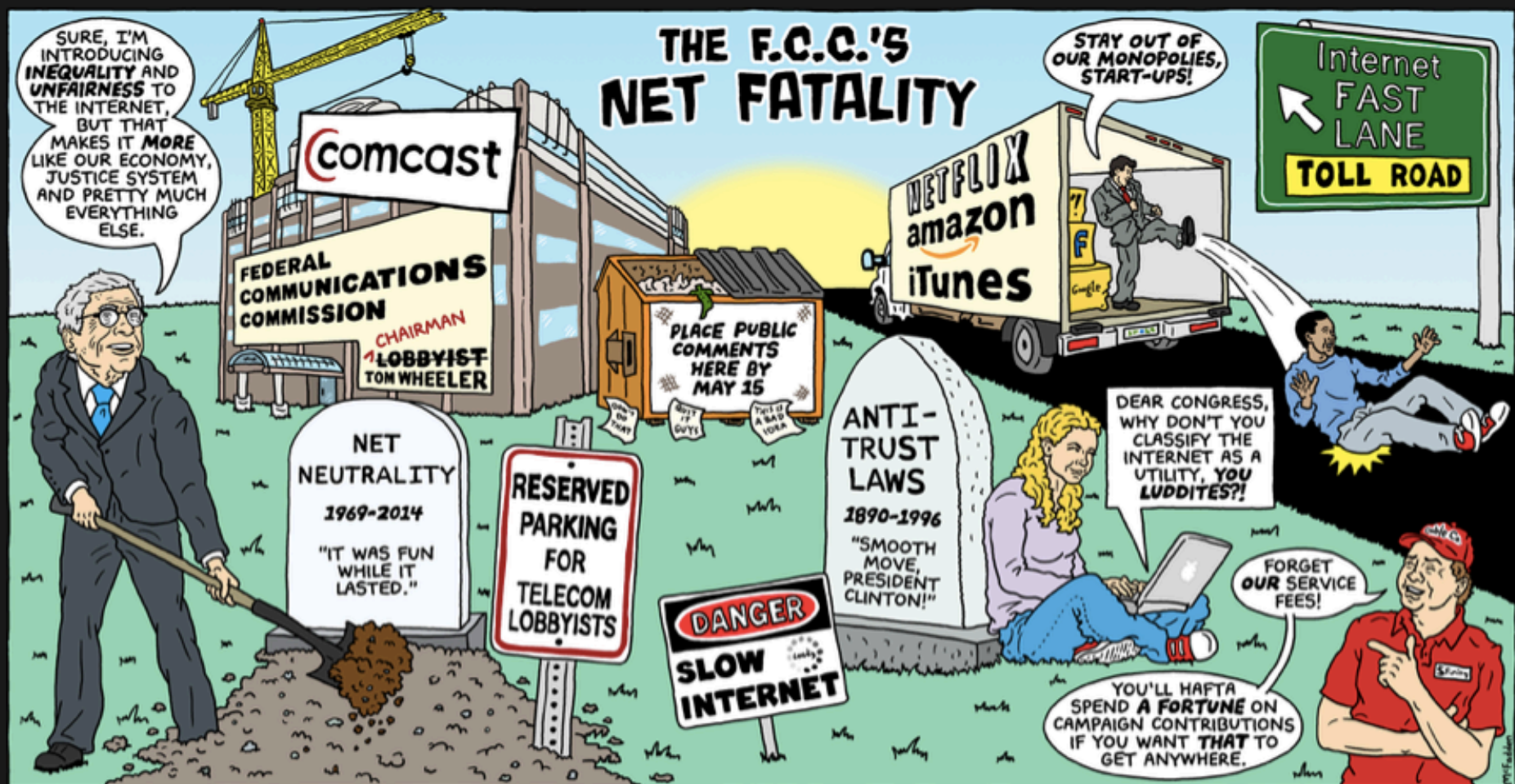
# Netflix download speeds

% change in Netflix download speed since Jan. 2013, by I.S.P.



SOURCE: Netflix

GRAPHIC: The Washington Post. Published April 24, 2014



April 27, 2014 — By Brian McFadden

The Strip by Brian McFadden, NYT, April 27, 2014.



# Net Neutrality Rulemaking

- FCC requires net neutrality for phone service
- Has treated “Internet access” as an “information service” under “Title I”, not subject to common carrier rules (non-discrimination, due process) and unbundling (requiring providers to let competitors use their lines). 2010 passed 6 “network neutrality principles”
  - Transparency
  - No blocking
  - Level playing field
  - Network management
  - Mobile devices are somewhat exempted
  - “vigilance”

# Net Neutrality Rulemaking

- 2014 *Verizon v. FCC* – Verizon, after lobbying to be treated under Title I, sued; earlier this year the D.C. Circuit found that the FCC Open Internet Order 2010 exceeded the FCC's regulatory authority under Title I by banning blocking and unreasonable discrimination. But noted that the FCC has plenty of authority under Title II, which regulates common carriers.
- FCC Chair Tom Wheeler has proposed allowing ISPs to discriminate – charge higher prices for faster bandwidth. But they have also opened up a question about reclassification to Title II.

# Net Neutrality Rulemaking

- 2014 *Verizon v. FCC* – Verizon, after lobbying to be treated under Title I, sued; earlier this year the D.C. Circuit found that the FCC Open Internet Order 2010 exceeded the FCC's regulatory authority under Title I by banning blocking and unreasonable discrimination. But noted that the FCC has plenty of authority under Title II, which regulates common carriers.
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# Net Neutrality Rulemaking

- May 15, 2014 – “FCC launches broad rulemaking on how best to protect and promote the open Internet”
- Asking questions about reclassification to Section II or leaving it under Title I and Section 706 for “promoting broadband”
- Proposes a “revived no-blocking rule”, but it’s unclear how it would pass muster under *Verizon v. FCC*
- Proposes “priority service” under a “commercial reasonableness” standard, criticized as vague and gutting net neutrality
- Deadline July 15; but “reply comments” due by Sept. 10.
- *Note: 14-28 is the “Open Internet” rulemaking; 14-61 is the specific NPRM allowing fast tracks. Comments on 14-28 may be general or refer specifically to the 14-61 proposal.*

# Rulemaking Comments

- Send Us Your Comments - <http://www.fcc.gov/comments>
  - Click on proceeding of interest – 14-28, “*Protecting and Promoting the Open Internet*”
    - Click to view the actual proposed rulemaking, available at <http://apps.fcc.gov/ecfs/document/view?id=7521129942>
  - At ECFS (“Electronic Comment Filing System”) select “ECFS Express” (quick-form) or “ECFS Standard” (long-form)



The screenshot shows the FCC's 'Send Us Your Comments' page. At the top, there's a navigation bar with links like 'The FCC', 'Our Work', 'Tools & Data', 'Business & Licensing', and 'Bureaus & Offices'. Below this is a search bar and a 'Take Action' button. The main heading is 'Send Us Your Comments'. The page provides instructions on how to file a comment, including a note that filings are public. A table lists several proceedings with their titles and the number of filings in the last 30 days.

Proceeding #	Title	Filings in Last 30 Days
14-28	Protecting and Promoting the Open Internet	49966
10-127	In the Matter of Framework for Broadband Internet Service.	23653
14-57	Applications of Comcast Corporation and Time Warner	12762

# Rulemaking Comments : Express (via Advocacy Groups)

- *Alternatively, various advocacy groups have set up shortcuts, to file an “Express” comment*
  - <http://dearFCC.org> [EFF]

The screenshot shows a web browser window with the address bar displaying 'https://www.dearfcc.org'. The page title is 'Dear FCC, | Dear FCC, It's Our Internet, and We'll Fight to Protect It'. Below the browser window, there is a red banner that says 'Start your letter to the FCC:'. The main content area is a form titled 'Dear FCC,'. It contains a text input field with the placeholder text 'Net neutrality, the principle that Internet service providers (ISPs) treat all data users may have fewer options and a less diverse Internet. ISPs could have too much power to determine my Internet experience by providing better access to some Other...'. Below this is a dropdown menu with the selected option 'A pay-to-play Internet worries me because' and a text input field with the placeholder text 'ISPs could act as the gatekeepers to their subscribers.'. Below the dropdown is a paragraph of text: 'Use this space to explain why the future of the Internet matters to you. Tell your story. Here's an example:'. Below this is a text input field with the placeholder text 'The Internet is important to me because, as a college business student, I need to know that there will not be barriers to entry for the new ideas and services that I hope to bring to the marketplace. If ISP subscribers have an easier time loading websites of existing companies than my new innovative product, there's no way that I will be able to compete or succeed.'. Below the text input field is a 'Sincerely,' label. Below the label are two text input fields: 'Name' and 'Address'.

Dear FCC, | Dear FCC, It's Our Internet, and We'll Fight to Protect It

Start your letter to the FCC:

Dear FCC,

Net neutrality, the principle that Internet service providers (ISPs) treat all data users may have fewer options and a less diverse Internet. ISPs could have too much power to determine my Internet experience by providing better access to some Other...

A pay-to-play Internet worries me because

ISPs could act as the gatekeepers to their subscribers.

Use this space to explain why the future of the Internet matters to you. Tell your story. Here's an example:

The Internet is important to me because, as a college business student, I need to know that there will not be barriers to entry for the new ideas and services that I hope to bring to the marketplace. If ISP subscribers have an easier time loading websites of existing companies than my new innovative product, there's no way that I will be able to compete or succeed.

Sincerely,

Name

Address

# ECFS Express

ECFS Express Upload Form

apps.fcc.gov/ecfs/upload/display?z=byz6

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[ser Manual](#)

[For Information on Filing a Consumer Informal Complaint | ECFS Standard](#)

Note: You are filing a document into an official FCC proceeding. All information submitted including names and address will be publicly available via the we

ECFS Express

\* Proceeding Number: 14-28

\* Name of Filer: Laura Quilter

Email Address: lquilter@lquilter.ne

Address

\* Address Line 1: 101 Red Gate Lane

Address Line 2:

\* City: Amherst

\* State: MA: MASSACHUSETTS

\* Zip: 01002

+4:

\* Type in or paste your brief comments

I support reclassification under Title II. Internet access is a public utility and should be treated as such. |

Continue

Reset

Note: You are filing a document into an official FCC proceeding. All information submitted including names and address will be publicly available via the we

# ECFS Standard

- Lots more scope to write, draft, edit, & refine your thoughts.
- Public filing, so worth the time to draft it nicely!
- If long, you need a 1-page concise summary, and follow formatting rules (at 47 CFR 1.49) A4 paper with 6.5x9.5 body; 12-point+ type (including footnotes); double-spaced.
  - <http://www.law.cornell.edu/cfr/text/47/1.49>
  - OR you could probably do a one-pager.



# ECFS Standard

- Sample outline:
  - Describe your interest (constituencies, clients, jobs, hobbies) & expertise.
  - Include local or relevant facts, and/or personal stories, that support your point.
    - Do you live in a rural area? Do you have competition for broadband, or not? What do you pay currently? Did you experience lags in Netflix access during the Comcast negotiations? Does your business, job, scholarship, rely on Internet access? Is disclosure & transparency of service terms useful, or not useful, in your broadband marketplace?
  - State what you believe should happen.
    - Do you support reclassification of broadband providers under Title II? Do you believe Internet access should be treated under “common carrier” rules, with non-discrimination requirements and due process for subscribers?
    - Do you support or oppose paid prioritization (“fast lanes” and their necessary corollary, “slow lanes”)? Would the “commercially reasonable” standard be acceptable to you, or not?
    - Do you support development of municipal broadband programs?
    - Should mobile broadband be included, or continue to be treated separately?
    - Comment on specific proposals within 14-61 if you like.

# ECFS Standard - Examples

- Closed Captioning (Blake Reid, Univ. of Colorado Boulder Law, Technology Law & Public Policy Clinic)
  - <http://apps.fcc.gov/ecfs/document/view?id=7521071136>
  - <http://apps.fcc.gov/ecfs/document/view?id=7520955715>
- Net Neutrality
  - Public Knowledge & Common Cause, <http://apps.fcc.gov/ecfs/document/view?id=7521094713>
  - Future of Music Coalition, <http://apps.fcc.gov/ecfs/document/view?id=7521094768>
  - CodeAcademy, [https://ammori.files.wordpress.com/2014/07/codecademy\\_commenttofcc.pdf](https://ammori.files.wordpress.com/2014/07/codecademy_commenttofcc.pdf)
  - General Assembly (educational provider), <https://ammori.files.wordpress.com/2014/07/general-assembly-fcc-comments.pdf>
  - Others: <http://ammori.org/2014/07/01/education-start-ups-file-comments-with-fcc-demanding-net-neutrality/>
  - Individuals :
    - <http://apps.fcc.gov/ecfs/document/view?id=7521373881>
    - <http://apps.fcc.gov/ecfs/document/view?id=7521373868>

# Reading & Viewing

- *The Nation*,  
<http://www.thenation.com/article/179934/fccs-net-neutrality-proposal-explained#> - A nice how-to, with screenshots
- Consumerist,  
<http://consumerist.com/2014/05/15/how-to-tell-the-fcc-exactly-what-you-think-about-the-proposed-net-neutrality-rule/> - another guide
- John Oliver, June 1, 2014,  
<https://www.youtube.com/watch?v=fpbOEoRrHyU&feature=kp>  
(13 minutes)
- Susan Crawford on Bill Moyers (Feb. 8, 2013),  
<http://billmoyers.com/segment/susan-crawford-on-why-u-s-internet-access-is-slow-costly-and-unfair/> .

# Resources

- FCC.gov
- Comments system
  - <http://www.fcc.gov/comments> - Comments
  - <http://www.fcc.gov/ecfs-expert> - Comments system searching, status checks, links to filing forms
- Net Neutrality Rulemaking
  - <http://www.fcc.gov/document/protecting-and-promoting-open-internet-nprm> - Notice of Proposed Rulemaking
  - <http://www.fcc.gov/document/fact-sheet-protecting-and-promoting-open-internet> Fact Sheet
  - <http://apps.fcc.gov/ecfs/upload/display?z=8x8w7> - Filing form for 14-28
  - [http://apps.fcc.gov/ecfs/comment\\_search/execute?proceeding=14-28](http://apps.fcc.gov/ecfs/comment_search/execute?proceeding=14-28) - List of comments for 14-28
  - <http://apps.fcc.gov/ecfs/proceeding/view?name=14-28>
  - Higher Education Net Neutrality Principles, <http://www.arl.org/news/arl-news/3312-higher-education-library-groups-release-net-neutrality-principles>