FCC Commenting Workshop

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FCC COMMENTING WORKSHOP

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

Laura Quilter
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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)
• “indecency”
• 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:
- 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.

Cox +45%
Cablevision +33%
Comcast +24%
Google Fiber +19%
AT&T U-Verse -5%
Verizon FIOS -6%
AT&T DSL -15%
Verizon DSL -24%

SOURCE: Netflix
GRAPHIC: The Washington Post. Published April 24, 2014
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.

• 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

- 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](http://www.fcc.gov/comments)
  • Click on proceeding of interest – 14-28, “Protecting and Promoting the Open Internet”
  • At ECFS (“Electronic Comment Filing System”) select “ECFS Express” (quick-form) or “ECFS Standard” (long-form)
Rulemaking Comments: Express (via Advocacy Groups)

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

**ECFS Express**

* Proceeding Number: 14-20
* Name of Filer: Laura Quilter
* Email Address: lquilter@lquilter.net

**Address**

* Address Line 1: 101 Red Gate Lane
* City: Amherst
* State: MA, MASSACHUSETTS
* Zip: 01001

* 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.

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

• Net Neutrality
  • 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](https://ammori.files.wordpress.com/2014/07/general-assembly-fcc-comments.pdf)
  • Individuals:
Reading & Viewing

- John Oliver, June 1, 2014, [https://www.youtube.com/watch?v=fpbOEoRrHyU&feature=kp](https://www.youtube.com/watch?v=fpbOEoRrHyU&feature=kp) (13 minutes)
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://apps.fcc.gov/ecfs/upload/display?z=8x8w7 - Filing form for 14-28
  • http://apps.fcc.gov/ecfs/proceeding/view?name=14-28