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20 F.C.C.R. 14986, 20 FCC Rcd. 14986, 2005 WL 2347767 (F.C.C.)

Federal Communications Commission (F.C.C.)

Policy Statement

****1** IN THE MATTERS OF APPROPRIATE FRAMEWORK FOR BROADBAND ACCESS TO THE INTERNET
OVER WIRELINE FACILITIES

CC Docket No. 02-33

REVIEW OF REGULATORY REQUIREMENTS FOR INCUMBENT LEC BROADBAND TELECOMMUNICATIONS
SERVICES

CC Docket No. 01-337

COMPUTER III FURTHER REMAND PROCEEDINGS: BELL OPERATING COMPANY PROVISION OF EN-
HANCED SERVICES; 1998 BIENNIAL REGULATORY REVIEW -- REVIEW OF COMPUTER III AND ONA
SAFEGUARDS AND REQUIREMENTS

CC Docket Nos. 95-20 98-10

INQUIRY CONCERNING HIGH-SPEED ACCESS TO THE INTERNET OVER CABLE AND OTHER FACILIT-
IES

GN Docket No. 00-185

INTERNET OVER CABLE DECLARATORY RULING

Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable
Facilities

CS Docket No. 02-52

FCC 05-151

Adopted: August 5, 2005

Released: September 23, 2005

***14986** By the Commission:

I. INTRODUCTION

1. The availability of the Internet has had a profound impact on American life. This network of networks has fundamentally changed the way we communicate.^[FN1] It has increased the speed of ***14987** communication, the range of communicating devices and the variety of platforms over which we can send and receive information.^[FN2] As Congress has noted, "[t]he rapidly developing array of Internet ...

services available to individual Americans represent an extraordinary advance in the availability of educational and informational resources to our citizens."^[FN3] The Internet also represents "a forum for a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity."^[FN4] In addition, the Internet plays an important role in the economy, as an engine for productivity growth and cost savings.^[FN5]

2. In section 230(b) of the Communications Act of 1934, as amended (Communications Act or Act), Congress describes its national Internet policy. Specifically, Congress states that it is the policy of the United States "to preserve the vibrant and competitive free market that presently exists for the Internet"^[FN6] and "to promote the continued development of the Internet."^[FN7] In section 706(a) of the Act, Congress charges the Commission with "encourag[ing] the deployment on a reasonable and timely basis of advanced telecommunications capability" -- broadband -- "to all Americans."^[FN8]

3. In this Policy Statement, the Commission offers guidance and insight into its approach to the Internet and broadband that is consistent with these Congressional directives.

II. DISCUSSION

4. The Communications Act charges the Commission with "regulating interstate and foreign commerce in communication by wire and radio."^[FN9] The Communications Act regulates telecommunications carriers, as common carriers, under Title II.^[FN10] Information service providers, "by contrast, are not subject to mandatory common-carrier regulation under Title II."^[FN11] The Commission, however, "has jurisdiction to impose additional regulatory obligations under its Title I ancillary *14988 jurisdiction to regulate interstate and foreign communications."^[FN12] As a result, the Commission has jurisdiction necessary to ensure that providers of telecommunications for Internet access or Internet Protocol-enabled (IP-enabled) services are operated in a neutral manner. Moreover, to ensure that broadband networks are widely deployed, open, affordable, and accessible to all consumers, the Commission adopts the following principles:

- **2** • *To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to access the lawful Internet content of their choice.*
- *To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to run applications and use services of their choice, subject to the needs of law enforcement.*
- *To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to connect their choice of legal devices that do not harm the network.*^[FN13]
- *To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to competition among network providers, application and service providers, and content*

providers.^[FN14]

III. CONCLUSION

5. The Commission has a duty to preserve and promote the vibrant and open character of the Internet as the telecommunications marketplace enters the broadband age. To foster creation, adoption and use of Internet broadband content, applications, services and attachments, and to ensure consumers benefit from the innovation that comes from competition, the Commission will incorporate the above principles into its ongoing policymaking activities.^[FN15]

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

FN1. The Internet is "the international computer network of both Federal and non-Federal interoperable packet switched data networks." 47 U.S.C. § 230(f)(1). The Internet is also described as "the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol or any successor protocol to transmit information." 47 U.S.C. § 231(e)(3). The Supreme Court has described the Internet as a "network of interconnected computers." *National Cable & Telecommunications Ass'n v. Brand X Internet Services*, 125 S. Ct. 2688, slip op. at 2 (2005) (*NCTA v. Brand X*); see also *Reno v. ACLU*, 521 U.S. 844, 849-50 (1997). No single entity controls the Internet; rather it is a "worldwide mesh or matrix of hundreds of thousands of networks, owned and operated by hundreds of thousands of people." John S. Quarterman & Peter H. Salus, *How the Internet Works*, <http://www.mids.org/works.html> (visited Dec. 17, 2003) (quoted at *IP-Enabled Services*, WC Docket No. 04-36, Notice of Proposed Rulemaking, 19 FCC Rcd 4863, 4869 n.23 (2004) (*IP-Enabled Services NPRM*)).

FN2. *IP-Enabled Services NPRM*, 19 FCC Rcd at 4869-70, para. 8.

FN3. 47 U.S.C. § 230(a)(1).

FN4. 47 U.S.C. § 230(a)(3).

FN5. See, e.g., Hal Varian et al., *The Net Impact Study: The Projected Economic Benefits of the Internet in the United States, United Kingdom and Germany*, available at: http://www.netimpactstudy.com/NetImpact_Study_Report.pdf (January 2002) (visited July 31, 2005).

FN6. 47 U.S.C. § 230(b)(2).

FN7. 47 U.S.C. § 230(b)(1).

FN8. 47 U.S.C. § 157 nt. (incorporating section 706 of the Telecommunications Act

of 1996, Pub. Law No. 104-104, 110 Stat. 56 (1996)).

FN9. [47 U.S.C. § 151](#).

FN10. See *NCTA v. Brand X*, slip op. at 1.

FN11. *Id.* at 3.

FN12. *Id.* at 3-4. We also note that the Enforcement Bureau recently entered into a consent decree to resolve an investigation with respect to the blocking of ports used for voice over Internet Protocol (VoIP). See *Madison River LLC and Affiliated Companies*, File No. EB-05-IH-0110, Order, [20 FCC Rcd 4295 \(Enf. Bur. 2005\)](#).

FN13. See *Hush-A-Phone Corp. v. United States*, [238 F.2d 266, 269 \(D.C. Cir. 1956\)](#); *Use of the Carterfone Device in Message Toll Telephone Service*, [13 FCC 2d 420 \(1968\)](#).

FN14. See Preamble, Telecommunications Act of 1996, [P.L. 104-104, 100 Stat. 56 \(1996\)](#) (enacting 1996 Act "to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies").

FN15. Accordingly, we are not adopting rules in this policy statement. The principles we adopt are subject to reasonable network management.

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