

PROTECTING AND PROMOTING THE OPEN INTERNET



PRESENTATION TO NANOG

BALTIMORE, MD

OCTOBER 8, 2014

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

2005

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

2010

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

2004

- Powell's "four freedoms"

2008

- Comcast BitTorrent Order

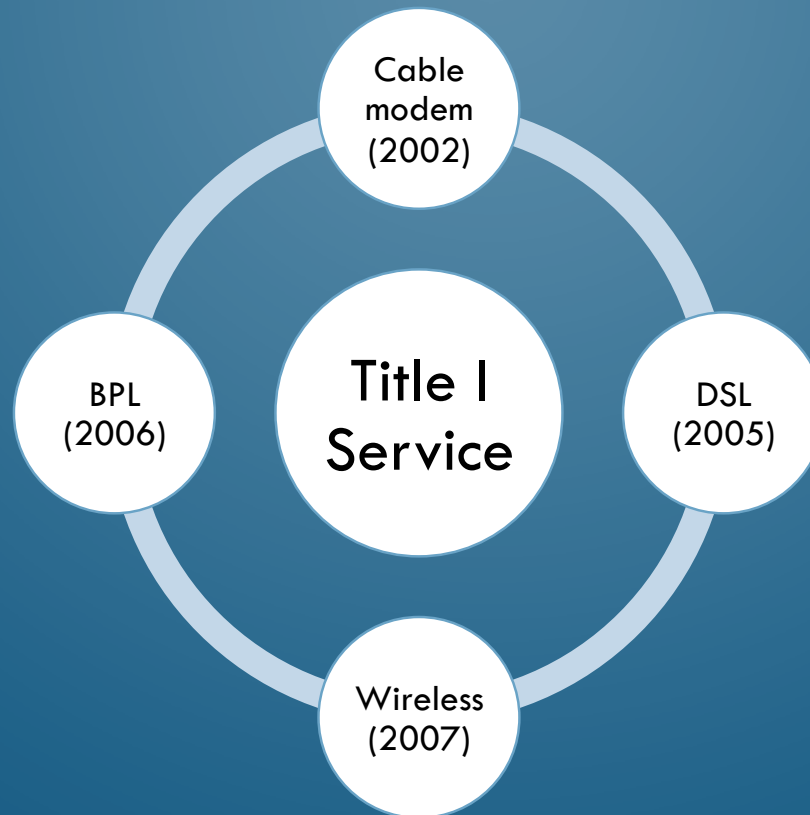
2014

- 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



OPEN INTERNET ORDER (2010)

No Blocking

- Fixed: services, content, applications, devices
- Mobile: websites, competing voice/video telephony

No Unreasonable Discrimination

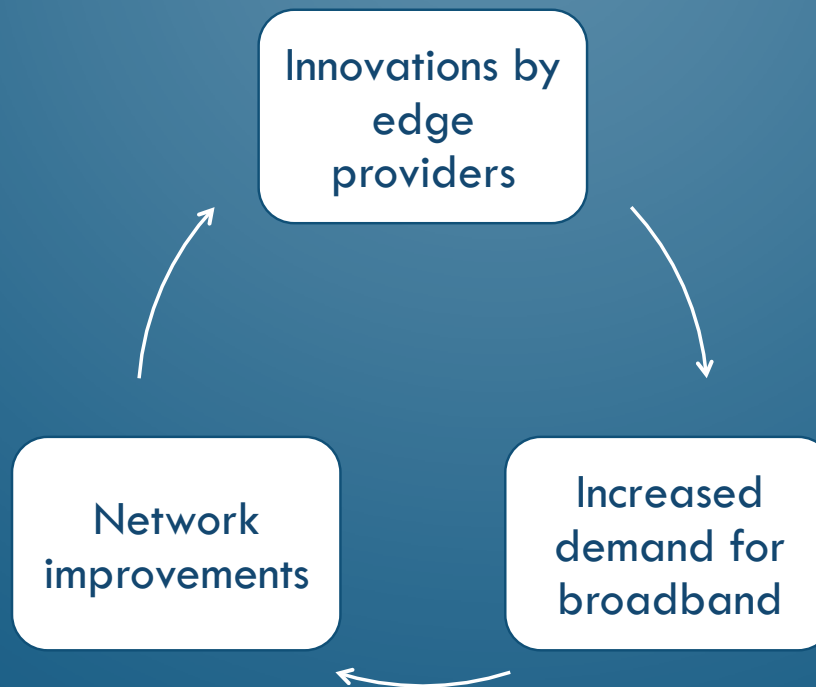
- Fixed only
- Case-by-case to determine “reasonableness”
- Skeptical of paid priority agreements

Transparency

- Fixed and Mobile
- Accurate info on network management practices, performance, and commercial terms

Subject to reasonable network management

OPEN INTERNET ORDER (2010): SECTION 706 “VIRTUOUS CIRCLE” OF INNOVATION



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



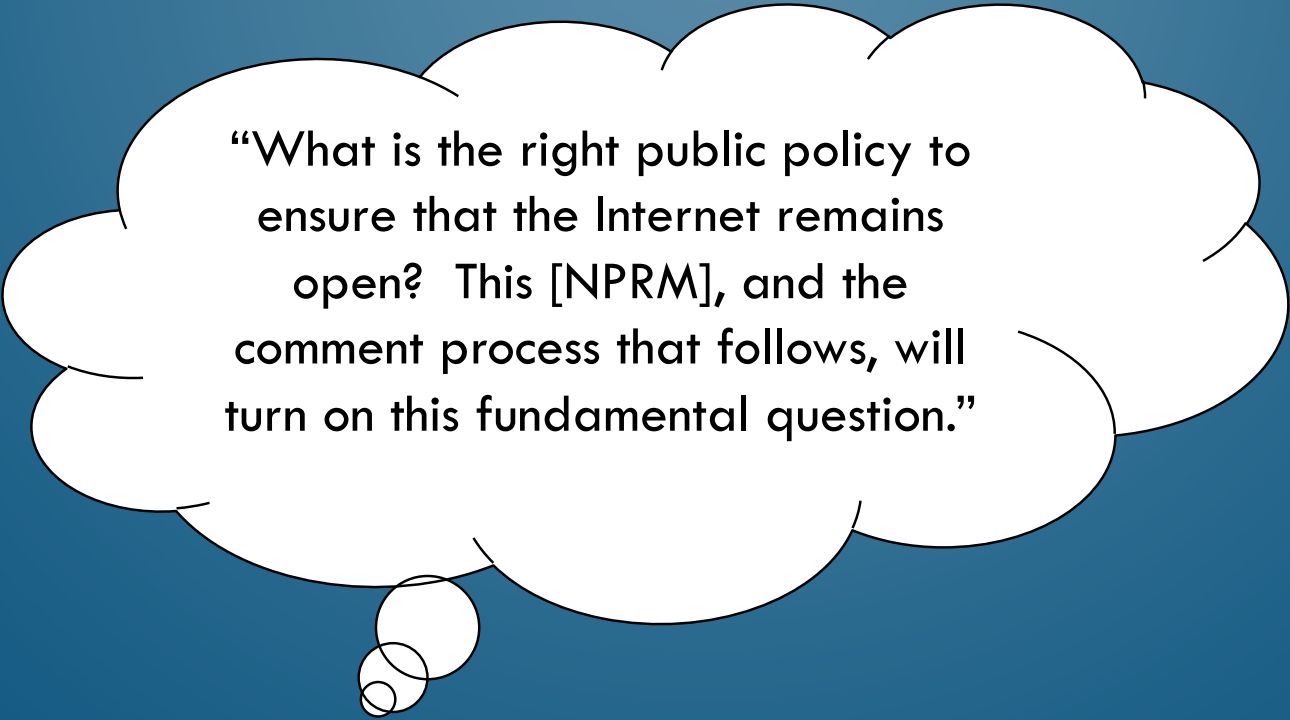
FOLLOWING JAN. 2014 COURT DECISION: WHAT CONSUMERS FACE TODAY

No Blocking

No
Unreasonable
Discrimination

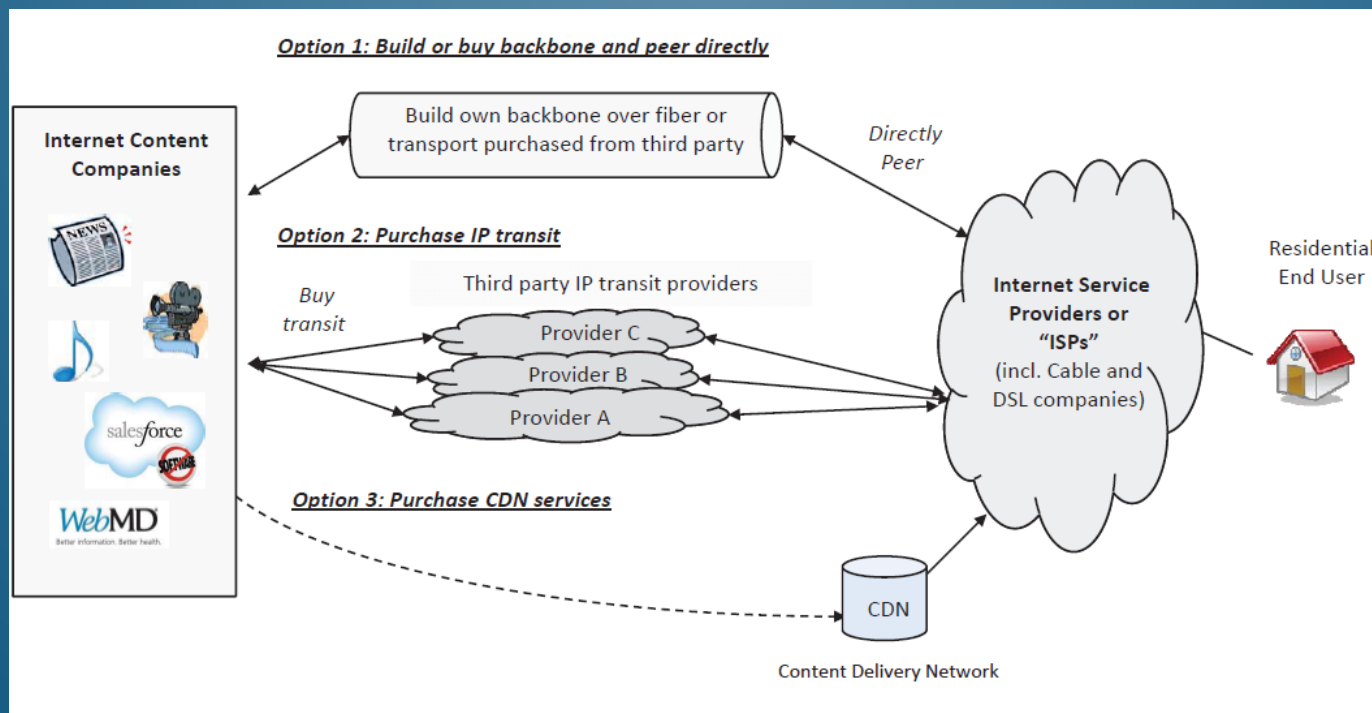
Transparency

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

A decorative background featuring a dark blue field with light blue circuit board traces and circular nodes along the left and right edges.

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

QUESTIONS?

Open Internet

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