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Federal Communications Commission
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FCC CLASSIFIES CABLE MODEM SERVICE AS “INFORMATION SERVICE” ***Initiates Proceeding to Promote Broadband Deployment and Examine Regulatory Implications of Classification***

Washington, D.C. – Today, the Federal Communications Commission (FCC) adopted another major rulemaking, part of a series of actions, designed to promote widespread deployment of broadband services. The FCC settled a debate over the regulatory classification of cable modem service and launched a proceeding to examine the proper regulatory treatment of this service.

In a *Declaratory Ruling* adopted today, the FCC concluded that cable modem service is properly classified as an interstate information service and is therefore subject to FCC jurisdiction. The FCC determined that cable modem service is not a “cable service” as defined by the Communications Act. The FCC also said that cable modem service does not contain a separate “telecommunications service” offering and therefore is not subject to common carrier regulation.

The FCC also adopted a *Notice of Proposed Rulemaking* to examine:

1. Certain issues in light of the FCC’s recent initiation of the *Wireline Broadband NPRM*, including whether there are legal or policy reasons why it should reach different conclusions with respect to wireline broadband and cable modem service.
2. The scope of the FCC's jurisdiction to regulate cable modem service, including whether there are any constitutional limitations on the exercise of that jurisdiction.
3. Whether, in light of marketplace developments, it is necessary or appropriate at this time to require multiple ISP access.
4. The role of state and local franchising authorities in regulating cable modem service.

The FCC said that the ultimate resolution of this item will promote broadband deployment, which should result in better quality, lower prices and more choices for consumers. In considering the issues raised by the original *Cable Modem NOI* and today’s *Notice*, the FCC is guided by the following principles and policy goals:

- ✓ Encourage the ubiquitous availability of broadband access to the Internet to all Americans.
- ✓ Ensure that broadband services exist in a minimal regulatory environment that promotes investment and innovation.
- ✓ Develop an analytical framework that is consistent, to the extent possible, across multiple platforms.

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With respect to state and local issues, the *Notice* makes three significant tentative conclusions:

- The statute does not provide a basis for a local franchising authority to impose an additional franchise for the provision of cable modem service.
- The provision of cable modem service should not affect the rights of cable operators to access the public rights-of-way.
- In the interest of national uniformity, the FCC should exercise its forbearance authority in light of the U.S. Court of Appeals for the Ninth Circuit's decision in the *Portland* case, which classified cable modem service as both an "information service" and "telecommunications service."

Regarding franchise fees, the FCC notes that the law limits franchise fees to 5 percent of the gross revenues the cable operator receives from cable service. The FCC said that revenues from cable modem service should not be used in computing this franchise fee ceiling.

Today's decision follows five other related proceedings – the *Cable Modem NOI*, the *National Performance Measures NPRM*, the *Incumbent LEC Broadband Notice*, the *Triennial UNE Review Notice* and, most recently, the *Wireline Broadband NPRM*. These proceedings, together with today's actions, are intended to build the foundation for a comprehensive and consistent national broadband policy.

-FCC-

CS Docket 00-185

CS Docket 02-52

Action by the Commission March 14, 2002, by Declaratory Ruling and Notice of Proposed Rulemaking (FCC 02-77). Chairman Powell, Commissioners Abernathy and Martin, with Commissioner Copps dissenting, and Chairman Powell, Commissioners Abernathy and Copps issuing separate statements.

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News about the Federal Communications Commission can also be found on the Commission's web site www.fcc.gov.