



NEWS

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See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

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FCC Eliminates Mandated Sharing Requirement on Incumbents' Wireline Broadband Internet Access Services

Decision Places Telephone and Cable Companies on Equal Footing

Washington, D.C. – The Federal Communications Commission today adopted policies that will bring more and better broadband services to consumers by eliminating facilities sharing requirements on facilities-based wireline broadband Internet access service providers.

The changes will enable wireline broadband Internet access providers to respond quickly to consumer demand with efficient, innovative services and spur more vigorous head-to-head competition with broadband services provided over other platforms. The Commission's action responds to market and technological changes marked by growth in the use of the Internet for communications and the availability of Internet service from multiple broadband pipelines, including cable, wireless, satellite, and power line networks.

The Report and Order adopted by the Commission puts wireline broadband Internet access service, commonly delivered by digital subscriber line (DSL) technology, on an equal regulatory footing with cable modem service, currently the market leader. This approach is consistent with a recent U.S. Supreme Court decision upholding the Commission's light regulatory treatment of cable modem service. Consistent regulatory treatment of competing broadband platforms will enable potential investors in broadband network platforms to make market-based, rather than regulation-driven, investment and deployment decisions.

Specifically, the Commission determined that wireline broadband Internet access services are defined as information services functionally integrated with a telecommunications component. In the past, the Commission required facilities-based providers to offer that wireline broadband transmission component separately from their Internet service as a stand-alone service on a common-carrier basis, and thus classified that component as a telecommunications service. Today, the Commission eliminated this transmission component sharing requirement, created over the past three decades under very different technological and market conditions, finding it caused vendors to delay development and deployment of innovations to consumers.

To ensure a smooth transition, the Order requires that facilities-based wireline broadband Internet access service providers continue to provide existing wireline broadband Internet access transmission offerings, on a grandfathered basis, to unaffiliated ISPs for one year. The Order

also requires facilities-based providers to contribute to existing universal service mechanisms based on their current levels of reported revenues for the DSL transmission for a 270-day period after the effective date of the Order or until the Commission adopts new contribution rules, whichever occurs earlier. If the Commission is unable to complete new contribution rules within the 270-day period, the Commission will take whatever action is necessary to preserve existing funding levels, including extending the 270-day period or expanding the contribution base.

The Order also allows wireline providers the flexibility to offer the transmission component of the wireline broadband Internet access service to affiliated or unaffiliated ISPs on a common-carrier basis, a non-common carrier basis, or some combination of both. Some rural incumbent local exchange carriers, or LECs, have indicated their members may choose to offer broadband Internet access transmission on a common carrier basis.

In a Notice of Proposed Rulemaking, the Commission seeks comment on whether it should develop a framework for consumer protection in the broadband age – a framework that ensures that consumer protection needs are met by *all* providers of broadband Internet access service, regardless of the underlying technology.

Action by the Commission, August 5, 2005, by Report and Order and Notice of Proposed Rulemaking, (FCC 05-150). Chairman Martin, Commissioner Abernathy, and Commissioners Copps and Adelstein concurring. Separate statements issued by Chairman Martin, Commissioners Abernathy, Copps and Adelstein.

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