

THE FCC'S 2015 OPEN INTERNET RULES ARE BACK

What's Next?

CONTINUING LEGAL EDUCATION

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Excerpts from Webinar held

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What's Next?

Introduction & Overview

- -On April 25, 2024 , the FCC adopted the 2015 “Obama Era” net neutrality (“Open Internet Rules”)
 - Ry Adopted 3-2 by Democratic Majority
- Consolidated Appeals pending before 6th Circuit Court of Appeals
 - Conservative make-up; FCC and pro-net neutrality advocates seeking to transfer to “friendlier” D.C. Circuit Court of Appeals
- Opponents petitioned the FCC for stay pending appeal
 - Denied
- Will they Survive?
- For our client alert on the new Open Internet rules, see <https://wstelecomlaw.com/wp-content/uploads/2024/05/Open-Internet-ALERT-5-29-24-.pdf>

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Introduction & Overview

- Effective Date of the “new” 2024 Open Internet Rules
 - July 22,2024
 - Except for Transparency Rule (47 CFR 8.2(a) & (b) (delayed indefinitely)
- Highlights of 2024 Open Internet Rules:
 - Utility style regulation of Broadband Internet Access (BIAS)
 - “Title II”” Common Carrier regulation
 - under 47 USC Section 201et. Seq.
 - Includes Mobile BIAS
 - Reclassified as commercial mobile service (“CMRS”)

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- Highlights: (continued)
 - BIAS Reclassification,
 - Sweeps in AT&T, Verizon, T-Mobile, Cable Companies
 - But “Big Tech” (Edge providers) still get a pass
 - Still unregulated internet service providers
 - Common carrier rules include
 - Privacy, universal service, disability access, etc.
 - But FCC will “forbear” (for now) from rate regulation
 - Expanded enforcement and complaint procedures

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- Highlights: (continued)
 - Expanded Transparency Requirements
 - Some exceptions for small carriers (100,000 customers or less)
- The Political Divide:
 - Congressional Review Act if Republican control in November

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- What Happens Next?
 - Potential Reversal Under “Major Questions Doctrine”
 - Requiring Questions of National Enforcement to be decided by Congress, not a federal agency
 - But Pro-Net Neutrality proponents will argue the Supreme Court's decision in “Brand X” gives FCC that Authority
 - Relied on “Chevron Deference” where statutory ambiguity in statute (Communications Act) should be resolved by agency FCC charged with its enforcement

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Introduction and Overview

Discussion Points

- Summary of the FCC's "new" Open Internet Rules
- Legislative Reaction
- Will the Rules Survive Appeal
- How does FCC and Federal Trade Commission (FTC) Internet regulation now intersect?

Speakers

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All of this is very complicated ...

**BUT... DO REMEMBER:
WHEN IN DOUBT – ASK YOUR LAWYER!**

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