

CDT Files Comments on Open Internet Rules

by [David Sohn](#) [1]
January 15, 2010

CDT [submitted extensive comments](#) [2] yesterday on the FCC's proposed "open Internet" rules.

Our basic take is that the FCC has put its finger on a crucial policy challenge. The current legal and policy framework does not adequately guarantee the future of the Internet's open and nondiscriminatory structure. Protecting the Internet's ability to serve as a platform for independent, upstart speech and innovation should be a central goal of modern communications policy. At the same time, though, the FCC has not to date laid out a sound basis for the regulatory jurisdiction it asserts. CDT's comments argue that the FCC needs to go back to square one on jurisdiction and articulate a carefully targeted and expressly limited legal basis for its action in this area.

Specifically, the FCC needs to be very clear that any final regulations it issues in this proceeding must stem from the agency's authority to oversee transmission activities -- the operation of facilities that carry communications. There is no FCC authority to regulate "the Internet" or to take steps to carry out broadly conceived "federal Internet policy" -- and asserting such authority, by opening the door to future government regulation of Internet matters, would be a threat to the very openness the FCC's proceeding means to protect. Jurisdiction questions should be very much on the FCC's mind after its [General Counsel's difficult argument](#) [3] January 8 in front of a highly skeptical D.C. Circuit panel, so hopefully CDT's argument on this point will find a receptive audience.

CDT's comments also offered detailed recommendations on a variety of key concepts in the proceeding, including the new nondiscrimination and transparency principles and the meaning of terms such as "reasonable network management" and "managed or specialized services." Modifying some of the proposed rules and providing more explanation and guidance in a final order will be essential to making the new rules effective.

Lots of parties filed comments by yesterday's deadline, and we haven't looked at them yet. But it's interesting to note that Google and Verizon -- two companies traditionally on opposite sides of this debate -- [filed a joint letter](#) [4] that suggests that perhaps best practices and dispute resolution on questions of Internet neutrality and network management could be analyzed in the first instance by "technical advisory groups" composed of a range of stakeholders with relevant technical expertise. We look forward to seeing whether this or other new concepts gain momentum as the policy debate moves ahead.

- [open internet](#)
- [netneutrality](#)
- [net neutrality](#)
- [comments](#)
- [FCC](#)
- [CDT](#)

Copyright © 2013 by the Center for Democracy & Technology. CDT can be freely copied and used as long as you make no substantive changes and clearly give us credit. [Details](#).

Source URL: <https://www.cdt.org/blogs/david-sohn/cdt-files-comments-open-internet-rules>

Links:

[1] <https://www.cdt.org/personnel/david-sohn>



[2] http://www.cdt.org/files/pdfs/2010_CDT_openness_comments.pdf

[3] <http://www.cdt.org/blogs/court-appears-skeptical-broad-fcc-authority>

[4] <http://www.scribd.com/doc/25258470/Google-and-Verizon-Joint-Submission-on-the-Open-Internet>