

CDT Reaction to Comcast v. FCC Decision

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Leslie Harris - President and CEO, CDT

Washington - A U.S. appeals court today ruled that the Federal Communications Commission lacked regulatory authority over Comcast's use of controversial tactics to manage selected types of Internet traffic flowing over the company's broadband Internet network. The court's decision raises serious questions about how to best protect the public's access to and use of communications in the Internet age.

"Either the FCC or Congress is going to have to go back to the drawing board and reconsider the authority that the agency can exercise over 'last mile' providers of Internet access," said Leslie Harris, president and CEO of the Center for Democracy & Technology. "Otherwise, the legal landscape will remain murky and ultimately fail to protect open and unfettered Internet access. "

The court decision makes clear, however, that the FCC does not have a free hand to assert jurisdiction over Internet matters generally. This aspect of the ruling may have healthy long-term consequences for the Internet's future.

"CDT has long argued that the best approach here would be for Congress to give the FCC a clean but limited grant of authority to preserve the openness and neutrality of Americans' 'last mile' access to the Internet," said CDT Senior Policy Counsel David Sohn. "Alternatively, the FCC will have to consider using its authority to reclassify broadband services to bring them under agency jurisdiction in a focused and light-touch way."

Going forward, it will be essential to distinguish between the function of connecting people to the Internet and the broad range of activity that occurs once they are connected. The debate about FCC jurisdiction must not confuse the two. CDT believes that some FCC jurisdiction over companies that provide Internet "on ramps" makes sense and can play an important role in protecting the medium's open nature; however, the FCC does not and should not have any authority over the broad range of commerce, speech, and technological innovation that the Internet enables.

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