

# FCC Launches Inquiry on Key Jurisdictional Question

by [David Sohn](#) [1]  
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The FCC today issued its much-anticipated [Notice of Inquiry](#) [2] on the agency's jurisdiction over broadband Internet access services. CDT welcomes the FCC's decision to roll up its sleeves and address this critical issue in a straightforward, thorough, and timely fashion.

The NOI tees up questions that are central to the nation's communications regulatory structure. The Internet is rapidly becoming the core communications network for the 21st century. It simply is not tenable for the federal communications regulator to lack any clear and stable conception of the scope of its authority over the services people use to access this network. And addressing the authority question now, in a direct and proactive fashion, is a much better alternative to a series of long and repetitious legal fights as the FCC attempts to implement each of the goals laid out in the National Broadband Plan and the Open Internet proceeding.

At the same time, it is crucial for the FCC to recognize limits to its authority. The agency needs to expressly refute and disprove the common rhetorical claim that its efforts here amount to an attempt to "regulate the Internet." The agency can best put this claim to rest by maintaining a narrow focus on the transmission component of Internet access -- the Internet's "on ramps" -- and reject authority over the content and applications that ride on top of the network.

CDT believes that the "Third Way" option outlined today and in [previous statements](#) [3] by Chairman Genachowski and General Counsel Austin Schlick can offer a sound path forward from both a policy and a legal perspective. As the FCC refreshes the record on the classification of broadband services, that record will show that people buying Internet access services today view it as a link for transporting traffic to and from the Internet at large -- simple transmission. In this and other areas, the assumptions underlying previous regulatory classification decisions have not held up. In the context of the FCC's far-reaching exploration of broadband policies, revising and updating such prior decisions is essential. In short, this is the time for a soup-to-nuts review. CDT looks forward to participating in this proceeding as the FCC considers the proper scope of its jurisdiction in the Internet age.

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- [national broadband plan](#)
- [Internet Neutrality](#)
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[2] [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-10-114A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-114A1.pdf)

[3] <http://www.cdt.org/blogs/andrew-mcdiarmid/long-last-title-ii-lite-broadband>