

A New Telecom Act?

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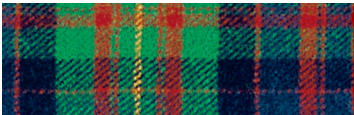
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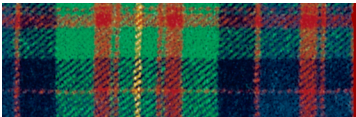
Workshop on Internet Economics (WIE)

UCSD



Overview

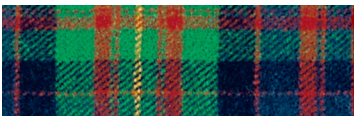
- Agenda
 - Why are we talking about a rewrite?
 - What do we want?
 - An open discussion
- Open Discussion
 - What matters?
 - How are we covering this now?
 - Is it appropriate and right for future?
 - What might be a better approach?



Why

Why?

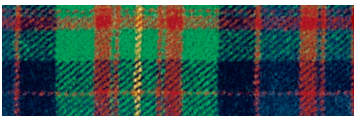
- The 96 Act did not consider many of the challenges we now face
- The FCC has worked to keep pace (through rulemaking), but
 - Convergence and restructuring of the networks where services are offered in different ways over multiple evolving technologies
 - HW/SW boundaries blur; service, network, equipment provider boundaries blur; evolution is rapid and unpredictable
 - Inconsistent set of rules across technologies offering critical services
- So what matters and where should we be heading?
- BTW, not useful to argue about
 - Current feasibility of reform
 - Competitiveness of only the last-mile (bottleneck likely to shift)
 - Whether we understand the details of the current Act and Rules
 - Which regulatory approach to take
 - The completeness of what we propose today



What do we want?

What do we want?

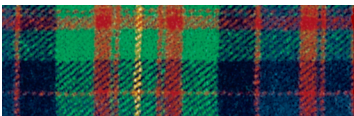
- *What do we want?*
 - kc's and Dave's aspiration list
 - or
 - Open Internet, reliability, security, privacy, availability, affordability, interconnected, public safety, CALEA, e911, media rules (ownership, must carry, access), attachment, access to spectrum, and many things not listed here
- *What approach? (maybe we can ignore this today)*
 - Transition plan, sunseting, definitions
 - Prescriptive (structural remedies, common carriage, price regulation), reactive (competition analysis, ALJ and hearings), both, something else
 - Transparency, Disclosure, Measurement (security, market, BW, loss, delay, reliability...)
 - Forbearance, preemption, agencies, enforcement (authority and the means)



Communications Act of 2021

- Title I: FCC – goals, scope, authority
 - What we want from our essential communications infrastructure (not what technology...)
- Title II: Bottleneck Facilities Regulation
 - Open access & Interconnection
 - Structural remedies
- Title III: Communications Market Monitoring & Enforcement
 - “Powell’s 4 Principles”
 - Universal Service plan
 - Measurement, disclosure, transparency
 - Rule-making authority & process
- Title IV: Spectrum Management
- Title V: Public Safety and Critical Infrastructure
- Title VI: Transition Plan
- ?? More ??

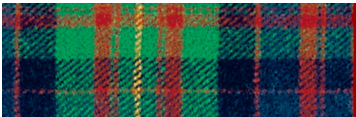
A first-cut draft... work-in-progress...



Open Discussion

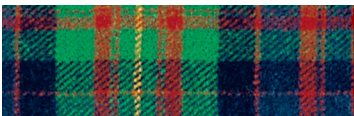
New Act (or rules)

- What matters?
- How are we covering this now?
- Is it appropriate and right for future?
- What might be a better approach?



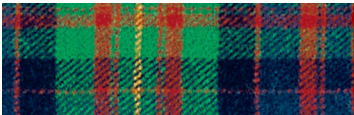
New Act (or rules)

- What matters?
 - Open Internet, device attachment, reliability, security, privacy, availability, affordability, interconnection, public safety, CALEA, e911, media (ownership, must carry, access), CPNI, access to spectrum *and all of those things that we didn't think of*
- How are we covering this now?
- Is it appropriate and right for future?
- What might be a better approach?



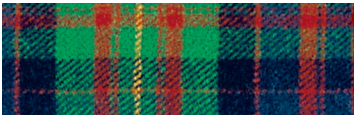
New Act (or rules) – an example

- What matters?
 - Access to spectrum
- How are we covering now?
 - FCC (Commercial), NTIA (Government)
- Is it appropriate and right for future?
 - No, a highly ineffective process
 - Should be managed as scarce resource, not as tool for industrial policy
 - Need facts and framework to enable efficient and effective use
 - Artificial distinctions - should have unified regulatory authority
- What might be a better approach?
 - Unified independent spectrum regulator



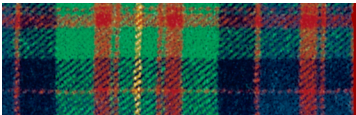
New Act (or rules)

- What matters? Protect Customer Proprietary Network Information (§ 222)
- How are we covering this now?
- Is it appropriate and right for future?
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New Act (or rules)

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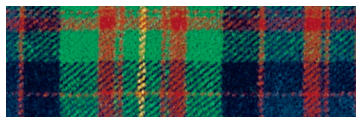
Thank you

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extras...

Structure and intent of the 96 Act

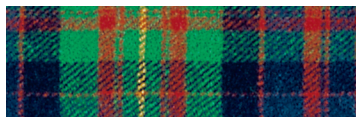
- -Preemption –ability of the Feds to preempt state and local gov
- -Interconnection –overcome incumbent resistance to interconnect new entrants
- -IC compensation –recover the cost of carrying a call (in a calling party pays model)
- -Entry into LD –let local phone companies offer long distance
- -Wholesale access to network elements – provide new entrants cost-based access to incumbent network elements
- -Universal service –how to ensure that all consumers got access to telecom service



The Current Act and Rules

- Lehr covered this
- Pillars of the 96 Act were *competition* and *deregulation*
 - *Deregulation has occurred. Competition can be argued.*
 - *96 Act amended parts of the 34 Act, representing a long, complex document*
 - *A massive set of proceedings followed the passage of the 96 Act, focused on competition in the telecom networks (much of this is now marginally applicable)*
 - *Many court decisions followed*
- Many other related rulemakings (cable, broadcast, wireless, enforcement...)
- Open Internet rulemaking occurred (and again a visit to the courts)
- The Act, the Rules and the Court decision together create a structure that govern communications in the US

- We don't have time to discuss any details, so our discussion will be incomplete and possibly inaccurate. That's OK, it's just a start – a thought experiment -- and many of you do know the details or at least have strong opinions.



Going forward

- *What do we want?*
 - Do we codify Open Internet (how much of it)?
 - How about those set-top boxes?
 - Do we want a new competition model, a new interconnection model, ...?
 - Do we want to identify critical services and obligations?
 - What about reliability, security, availability, affordability, interconnection, public safety, CALEA, e911, media (ownership, must carry, access...), enforcement, ...?
 - Do we create a set of reporting requirements for security, reliability, performance, ...?
 - What about privacy (of search, of access, of location, of whatever)?
 - Do we split responsibility between FTC and FCC on some things? Do we consolidate?
- *What approach to take and what data might we want to collect?*
 - Prescriptive (structural remedies / common carriage), reactive (competition analysis), both, something else
 - Transparency and Disclosure policies, Measurement (BW, loss, delay, reliability...)
 - Ex post enforcement (authority and the means)
- *Do we need a new Act to accomplish any (all) of this?*

