[Primer] The FCC (mostly) (de)regulates services, not networks

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Network vs. service

- **Service:**
  - Class of service
  - Service

- **Network:**
  - Equipment
  - Class of network
  - Network

- **Regulation:**
  - Regulation of service
  - Regulation of network
Class of service

- Telecommunications:
  - the transmission ...
  - of information of the user's choosing, without change in the form or content ...

- Telecommunication service:
  - the offering of telecommunications for a fee directly to the public ...
  - regardless of the facilities used

- What constitutes a change in the form or content?
Service

- **Broadband Internet access service:**
  - a mass-market retail service
    - that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints ...
  - by wire or radio

- **What is the geographical scope of the service?**
  - Last-mile?
  - Interconnection?

- If the service includes both telecommunications and an information service component, are they separable?
Equipment

- Telecommunications equipment:
  - equipment ...
  - used by a carrier
  - to provide telecommunications services ...

- Note connection between equipment and service, but not exclusive use
Class of network

- Telecommunications network:
  - the telecommunications facilities and equipment
    - including the software, features, functions, and capabilities that are provided by means of such facilities and equipment
  - used in the provision of a telecommunications service

- Note connection between network and service, but not exclusive use
Network

- Public switched network:
  - any common carrier switched network ...
  - that uses the North American Numbering Plan
    - or public IP addresses (?)
  - in connection with the provision of switched services

- Note connection between public switched network and service, but not exclusive use

- Note problem caused by pairing of network with addressing scheme
Regulation of service

- The FCC (mostly) (de)regulates services, not networks
  - Usually the service determines the type of regulation:
    - Title II: telecommunication services
    - Section 332: mobile services
      - commercial mobile service vs. private mobile service
      - Title VI: multichannel video programming, cable service

- Section 202: Discrimination
  - It shall be unlawful for any common carrier [i.e. provider of telecommunications service]
  - to make any unjust or unreasonable discrimination
  - in charges, practices, classifications, regulations, facilities, or services ...
Regulation of network

- But the FCC (sometimes) (de)regulates networks

- Interconnection
  - Each telecommunications carrier has the duty to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers ...

- Unbundling
  - Each incumbent local exchange carrier has the duty to provide ... nondiscriminatory access to network elements on a unbundled basis ...
  - ... in a manner that allows requesting carriers to combine such elements in order to provide telecommunications service
The big regulatory challenge: convergence
Challenge: Where does the Title II service begin?
Challenge: What services fall under which Title?

- Capacity for BIAS
  - WiFi
  - OTT video (Netflix, Hulu)
- Capacity for MVPD services
  - Cable video over IP
  - STB
  - Live / Recorded
  - On-Demand

MVPD partitions capacity for cable services between live and on-demand video.

MVPD may claim cable video over IP does *not* use BIAS capacity, and is thus *not* counted against data cap.