

FCC Regulation of Broadband Service and Action on Net Neutrality

This infographic shows how the Federal Communications Commission (FCC) has developed its net neutrality policy over the years, often in response to court decisions, and how that policy has interacted with the FCC’s regulatory classification of broadband service.



Regulatory Classification of Broadband Service

The FCC’s ability to adopt net neutrality regulations is tied to how it classifies broadband internet under the Communications Act of 1934.

The FCC may classify broadband service as either a telecommunications service or an information service.

TWO

MUTUALLY EXCLUSIVE SERVICES ▶

► **Telecommunications Service**

Offers consumers the ability to transmit information of their choosing without changing the form or content of that information.

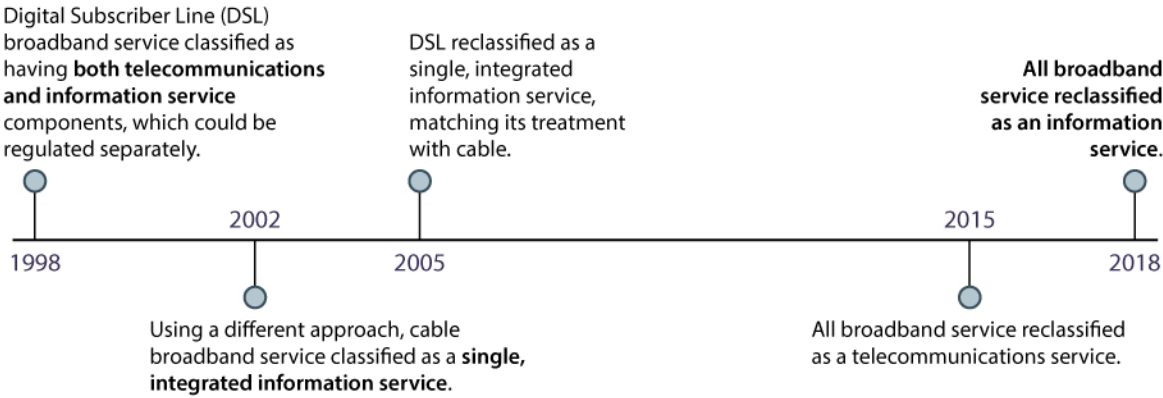
Companies that provide telecommunications services are considered common carriers, and the FCC has extensive regulatory authority over them under Title II of the Communications Act.

► **Information Service**

Offers consumers the capability to process, generate, acquire, or use information.

The FCC has only limited authority over information service providers.

FCC Shifts in Classifying Broadband Service as a Telecommunications or Information Service



NCTA v. Brand X (2005)

The U.S. Supreme Court recognized the FCC’s discretion to choose the appropriate classification for broadband service. Following *Brand X*, courts have consistently upheld the FCC’s classification decisions.



What is Net Neutrality?

Net neutrality generally refers to the idea that internet service providers (ISPs) should neither control how consumers use their networks nor discriminate among the content providers that use their networks. The FCC’s net neutrality rules, while mostly no longer in place, implemented these principles by prohibiting ISPs from blocking or degrading lawful internet traffic or favoring some traffic over others in exchange for payment.

The FCC’s Net Neutrality Rules

The FCC has adopted three policies or rules requiring ISPs to abide by net neutrality principles:

- 1 2005 Internet Policy Statement
- 2 2010 Open Internet Order
- 3 2015 Open Internet Order

The D.C. Circuit rejected the FCC’s early efforts to enforce net neutrality. In *Comcast v. FCC* (2010), the D.C. Circuit rejected the FCC’s attempt to enforce the principles in its 2005 policy statement. In *Verizon v. FCC* (2014), the D.C. Circuit overturned most of the FCC’s 2010 Open Internet Order.

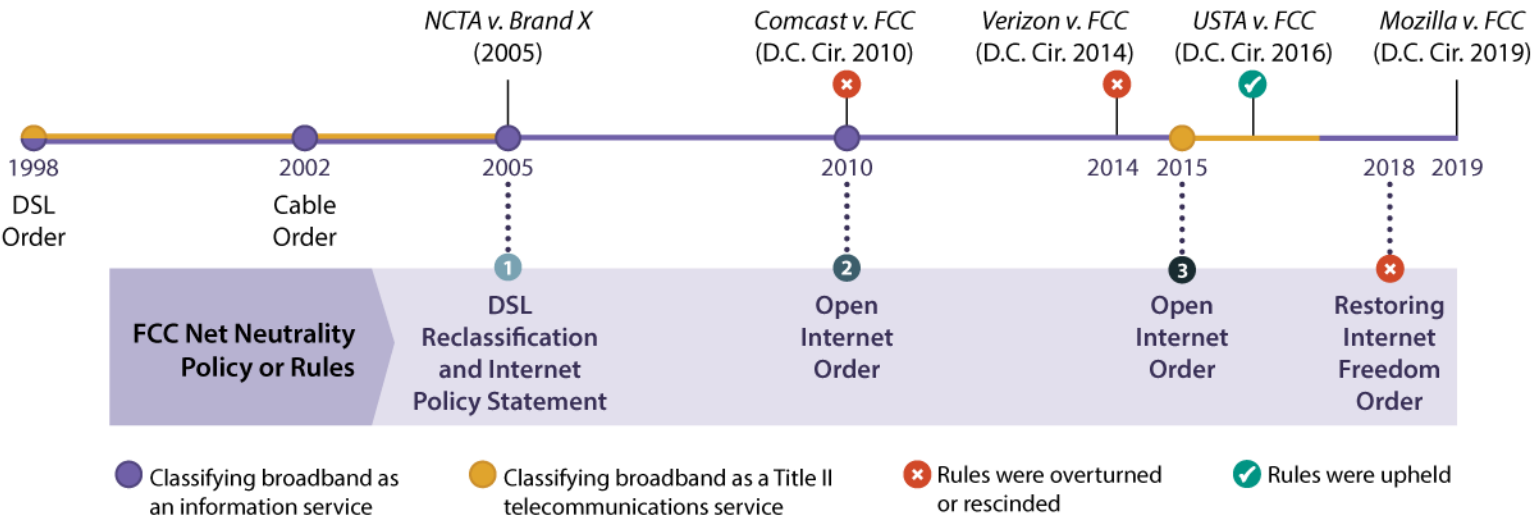
The *Verizon* case is particularly significant because the court held that the FCC may not adopt net neutrality rules without

classifying broadband as a Title II telecommunications service.

The D.C. Circuit **upheld** the FCC’s 2015 rules in *USTA v. FCC* (2016) because the FCC had reclassified broadband service as a Title II telecommunications service.

The FCC, however, **rescinded these rules** in its 2018 Restoring Internet Freedom Order. The D.C. Circuit upheld the FCC’s rescission of the rules in *Mozilla v. FCC* (2019).

Timeline of Significant FCC Actions and Court Decisions



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