

Asymmetric Regulation of U.S. Communications Firms vs. Internet Firms

...that provide similar fundamental communications functions/services for the same consumers

FCC Media: Regulated

Radio, Telecom, TV, satellite, cable, wireless, & broadband firms
FCC-Regulated Subject to Legacy Public Interest Duties & Laws

Competition Enforcement

US Ownership limits for cable, TV, radio & newspaper firms
Mergers reviewed by DOJ & the FCC public interest test
Competitive measures/performance determine regulation

National Security/Law Enforcement

Must comply with FBI-CALEA/FISA-national security warrants
Must comply with state & local law enforcement authorities

Public Safety Duties

Subject to homeland security, emergency preparedness regs

Privacy Enforcement

Subject to wiretap, telecom, wireless, video privacy/data regs

Public Interest Obligations

Subject to FCC indecency, EEO, localism, or children regs
FCC election ad discount, reporting, & transparency duties
Subject to reasonable network & non-discrimination duties
Infrastructure rights of way and local franchise obligations

Intermedia: Immunized from Regulation

Google, Facebook, Amazon, Uber, Airbnb & Internet Association
Section 230-Immunized from Most Public Interest Accountability

No Competition Enforcement

No ownership/partnership limits to ensure diversity of views
Only FTC reviews mergers with implied section 230 immunity
No behavior, performance, or action risks FCC enforcement

No National Security/Law Enforcement

Claim immunity from FBI-CALEA/FISA-national security duties
Claim immunity from state/local law enforcement authorities

No FCC Public Safety Duties

Claim immunity for hosting sex trafficking & terrorist content

No FCC Privacy Enforcement

Ignore wiretap/privacy laws, immunized recording/using data

No FCC Public Interest Obligations

No FCC indecency, EEO, children/consumer protection duties
No election ad discount, reporting, & transparency duties
No reliability, reasonable network, non-discrimination duties
No cloud infrastructure rights of way or local franchise duties