
Table of Contents

PREFACE TO FIFTH EDITION	i
ACKNOWLEDGEMENTS.....	iii
SUMMARY OF CONTENTS	v
TABLE OF CONTENTS.....	vii
CHAPTER 1: POWER	1
A. Technological Power	3
1. Signals	5
a. Signals Explained.....	5
b. Signal Types: Analog or Digital	7
2. Channels.....	10
a. Wireless Systems	10
b. Wireline Systems	12
B. Economic Power.....	13
1. The Story of Competition.....	14
2. The Story of Monopoly	22
C. Legal Power	27
1. Congress.....	27
a. Communications Act	27
b. Antitrust Law	31
2. Agencies.....	34
a. The FCC.....	35
b. Other Agencies.....	41
3. Courts	42
4. Federalism.....	46
a. Federal / State Divide.....	46
b. State Public Utilities Commissions	47
c. Global Structures.....	48

CHAPTER 2: ENTRY	51
A. Broadcast.....	52
1. Technology.....	52
2. Context	62
3. Spectrum Scarcity	65
NBC v. United States	65
Red Lion Broadcasting Co. v. FCC.....	77
Miami Herald Publishing Co. v. Tornillo.....	87
B. Telephony.....	95
1. Technology.....	95
2. Context	98
3. Common Carriage.....	99
NW Tel. Exchange Co. v. City of St. Charles..	100
Note: Natural Monopoly	111
Note: Mobile Telephony	116
C. Cable Television	122
1. Technology.....	122
2. Context	123
3. Medium Scarcity.....	125
Community Communications Co. v. Boulder..	125
Preferred Communications v. Los Angeles.....	136
Note: Distributing Scarce Resources	145
CHAPTER 3: PRICING	155
A. Telephony.....	155
1. Setting Prices.....	156
a. Mapping the Players.....	156
b. Reviewing the Methods	165
2. Challenging Prices: Administrative Rationality ...	173
USTA v. FCC.....	175
3. Subsidizing Prices	183
a. Before 1996: Implicit Subsidies	184
b. After 1996: Explicit Subsidies.....	188
Note: Connect America Fund	190

B. Cable Television	194
1. Setting Prices.....	194
2. Challenging Prices: First Amendment	198
Time Warner Entertainment Co., L.P. v. FCC.	198
CHAPTER 4: ACCESS.....	209
A. Broadcast TV	209
1. Access to the Station: Fairness Doctrine.....	210
2. Access to the Broadcast Network.....	216
Note: Financial Syndication Rules (FinSyn)....	225
Note: Other Checks on Network Dominance...	229
B. Cable Television	232
1. Access to the Cable System.....	233
a. Must-carry	233
Turner Broadcasting v. FCC	234
Note: Rise of Retransmission Consent	256
Note: Cable and Broadcast TV Relations.....	258
b. Public, Educational, Government Channels....	261
c. Leased Access	262
Time Warner Entertainment Co. v. FCC.....	262
2. Access to the Multiple System Operator.....	268
C. Direct Broadcast Satellite	273
1. Technology.....	273
2. Context	275
3. Access to the DBS System	277
a. Must-carry?	277
b. PEG Channels or Leased Access?.....	278
Time Warner Entertainment Co. v. FCC.....	279
Time Warner Entertainment Co. v. FCC.....	284
D. Telephony	290
1. Breakup of AT&T.....	291
2. Access to the Local Exchange.....	297
a. Promoting Local Exchange Competition	297
b. Intercarrier Compensation	302

E. Internet	309
1. Technology and Context.....	309
Kevin Werbach, Digital Tornado: The Internet and Telecommunications Policy	309
2. Access to Broadband Internet.....	319
a. The Problem	319
Tim Wu, Why Have a Telecommunications Law? Anti-Discrimination Norms in Communications	323
b. The FCC's response	329
Protecting and Promoting the Open Internet	330
USTA v. FCC.....	341
Note: Neutrality Deeper in the Cloud	348
CHAPTER 5: CLASSIFICATION	357
A. Cable Television	358
United States v. Midwest Video Corp. (Midwest Video I)	358
FCC v. Midwest Video Corp. (Midwest Video II).....	366
B. Dial-up Internet	372
1. Telecommunications Service or Information Service	373
2. Dial-up Internet as Information Service	376
C. Broadband Internet	378
1. Technology and Context.....	378
Advanced Telecommunications Capability.....	379
2. Broadband Internet as Information Service	385
Note: Cable Modem Service as Hybrid Service?	386
High-Speed Access to the Internet over Cable.	390
NCTA v. Brand X	400
3. Unintended Consequences: Access	425
Comcast v. FCC	426
Verizon v. FCC.....	434

4. Broadband Internet as Telecommunications	
Service.....	443
Protecting and Promoting the Open Internet....	444
USTA v. FCC (continued).....	466
D. Cross Platform Services.....	478
1. VoIP	479
Vonage Petition	482
2. Next Generation Video Programming	504
Office of Consumer Counsel v. AT&T	509
CHAPTER 6: BAD CONTENT	523
A. Indecency	524
1. Broadcast.....	524
FCC v. Pacifica.....	525
Action for Children’s Television v. FCC	541
Note: Shifting Indecency Policies.....	556
2. Telephony.....	562
FCC v. Sable Communications of California..	563
Note: Dial-a-porn Regulations.....	570
3. Cable.....	574
Cruz v. Ferre.....	575
United States v. Playboy Entertainment Group	582
4. Internet	594
Reno v. ACLU.....	595
Ashcroft v. ACLU	618
Note: Children’s Internet Protection Act	635
B. Privacy.....	639
1. Telephony.....	640
Bartnicki v. Vopper.....	641
NCTA v. FCC	661
2. Cable TV	675
Scofield v. Telecable of Overland Park, Inc.....	676
3. Internet	680
Joffe v. Google	681

Protecting the Privacy of Customers of Broadband
and Other Telecommunications Services 692

CHAPTER 7: INTERMEDIARY LIABILITY 703

A. Before 47 U.S.C. § 230.....	704
Note: Defamation Law.....	704
Cubby v. CompuServe.....	708
Stratton Oakmont v. PRODIGY Services Co. .	714
B. After 47 U.S.C. § 230.....	723
1. Expansion.....	723
Zeran v. America Online.....	723
Blumenthal v. Drudge.....	734
2. Contraction.....	742
Chicago Lawyers’ Committee for Civil Rights v. Craigslist, Inc.....	743
Fair Housing Council of San Fernando Valley v. Roommates.com.....	755