

考試規則：1. 禁止使用字典。 2. 單選題答錯不倒扣。

I. Choose the best answer for each question after reading the following news report (Single Choice, 5% each)

Internet service providers are free to make deals with services like Netflix or Amazon allowing those companies to pay to stream their products to online viewers through a faster, express lane on the web, a federal appeals court ruled on Tuesday.

Federal regulators had tried to prevent those deals, saying they would give large, rich companies an unfair edge in reaching consumers. But since the Internet is not considered a utility under federal law, the court said, it is not subject to regulations banning the arrangements.

Consumer advocates, though, warned that higher costs to content providers could be passed on to the public. "It leaves consumers at the mercy of a handful of cable and phone providers that can give preferential treatment to the content they profit from," said Delara Derakhshani, policy counsel for Consumers Union.

The ruling, in a case brought by Verizon against the F.C.C., concerns at its heart the basic question of whether Internet service is a utility of such vital importance, like telephone lines or electricity, that it needs to be regulated closely.

Although the court, the United States Court of Appeals for the District of Columbia, found that the regulations preventing the deals were invalid, it said that the commission did have some basic authority "to promulgate rules governing broadband providers' treatment of Internet traffic." It also upheld agency rules requiring broadband companies to disclose how they manage their networks.

At the least, the F.C.C. will have to try again to define its mission in the Internet age. Tom Wheeler, the agency's new chairman, said the agency might appeal the decision, but had previously voiced support for allowing Internet companies to experiment with new delivery methods and products. The rules, referred to as the Open Internet order and based on the principle of so-called net neutrality, were enacted in 2010 under the previous chairman, Julius Genachowski.

In a statement, Mr. Wheeler said he was "committed to maintaining our networks as engines for economic growth, test beds for innovative services and products,

and channels for all forms of speech protected by the First Amendment."

"We will consider all available options," he added, "including those for appeal, to ensure that these networks on which the Internet depends continue to provide a free and open platform for innovation and expression, and operate in the interest of all Americans."

In 2002, the agency said Internet service should not be subject to the same rules as highly regulated utilities, which are governed by regulations on matters like how much they can charge customers and what content they can agree to carry.

Tuesday's ruling essentially holds the F.C.C. to that determination, made when dial-up modems offered users the chance to crawl through chat rooms and to manipulate crude graphics.

Organizations that had opposed the agency's rules interpreted the Tuesday ruling as favorable to the F.C.C. Michael K. Powell, who was F.C.C. chairman in 2002 when the agency set up its Internet governance structure, said, "Today's historic court decision means that the F.C.C. has been granted jurisdiction over the Internet."

Mr. Powell, who is now president of the cable industry's chief lobbying group, said the decision would not result in significant changes in how Internet companies manage their broadband networks.

Verizon, in fact, portrayed the decision as at least a partial loss. "The court rejected Verizon's position that Congress did not give the Federal Communications Commission jurisdiction over broadband access," Randal Milch, a Verizon executive vice president and general counsel, said in a statement.

"At the same time," he said, "the court found that the F.C.C. could not impose last century's common carriage requirements on the Internet, and struck down rules that limited the ability of broadband providers to offer new and innovative services to their customers."

Judge David S. Tatel, who wrote the decision, was joined by Judge Judith W. Rogers in striking down the F.C.C. regulations but upholding the idea that the agency has "authority to enact measures encouraging the deployment of broadband infrastructure."

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國立中央大學103學年度碩士班考試入學試題卷

所別：產業經濟研究所碩士班 法律組(一般生)

科目：法學英文

共 4 頁 第 2 頁

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In a separate opinion, Judge Laurence H. Silberman agreed with the majority's reasons for striking down the F.C.C. rules but disputed its conclusion that Section 706 of the Communications Act gives the F.C.C. some legal authority over Internet service.

Much of the argument over net neutrality has been theoretical. Verizon noted in its court papers that the F.C.C. documented only four examples over six years of purported blocking of Internet content by service providers.

But the issue came into focus in the agency's review of the purchase of NBCUniversal by Comcast. As a condition of approving the deal, the F.C.C. made Comcast promise that it would abide by the Open Internet rules for seven years, even if the rules were modified by the courts.

David L. Cohen, an executive vice president at Comcast, said that the company was "comfortable with that commitment because we have not — and will not — block our customers' ability to access lawful Internet content, applications, or services. Comcast's customers want an open and vibrant Internet, and we are absolutely committed to deliver that experience."

Consumer advocacy groups, however, said the ruling was likely to accelerate the development of paid-access deals. "I would not be surprised if business development folks in I.S.P.'s around the country were now looking for ways to partner with content creators," said Michael Weinberg, acting co-president of Public Knowledge, a consumer advocacy group. The companies' goal is "to make sure their unpartnered service is bad enough that a paid partnership is attractive."

1. What is the most likely name of the case?
- A) Verizon v. Genachowski.
 - B) Comcast v. Verizon.
 - C) Verizon v. FCC.
 - D) Comcast v. FCC.
 - E) None of the above is possible.
2. Which of the following is false?
- A) This is a news report about a court decision.
 - B) A single judge decided the case.
 - C) The F.C.C. may appeal the decision.
 - D) None of the above.
 - E) All of the above.

3. Which of the following is true?
- A) David S. Tatel is the chairman of the F.C.C.
 - B) Julius Genachowski is the chairman of the F.C.C.
 - C) Delara Derakhshani is the chairwoman of the F.C.C.
 - D) Tom Wheeler is the chairman of the F.C.C.
 - E) The F.C.C. has no chairman; it has a director.
4. Which of the following is the most appropriate title for the news story?
- A) Rebuffing F.C.C. in 'Net Neutrality' Case, Court Allows Streaming Deals.
 - B) Supreme Court Rules on Internet Streaming Deals.
 - C) Comcast on Top in a Showdown with the F.C.C
 - D) Bittersweet Victory for the F.C.C.
 - E) 'Net Neutrality' Is Now Officially Dead.
5. Which of the following is true?
- A) The case was decided by a Federal court.
 - B) Verizon is the loser in this case.
 - C) Comcast is the winner in this case.
 - D) All of the above are true.
 - E) None of the above is true.
6. Which of the following is the opinion of the Court?
- A) The F.C.C. got it right in its Open Internet order.
 - B) The F.C.C. has no authority over the Internet.
 - C) The Internet is a public utility.
 - D) The F.C.C. made the right decision in the Comcast case.
 - E) None of the above.
7. What is the meaning of the word "advocacy" in the last paragraph?
- A) Legitimacy.
 - B) Championing.
 - C) Litigation.
 - D) Opponent.
 - E) Nemesis.
8. How many past and present F.C.C. commissioners are named in the news story?
- A) One.
 - B) Two.
 - C) Three.
 - D) Four.
 - E) Five.

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9. By "the Internet is not considered a utility under federal law", the court suggests ...
- A) the Internet provides no utility to the people.
 - B) the Internet is essential to the people.
 - C) the Internet should be strictly regulated.
 - D) the Internet is dissimilar to water and electricity.
 - E) all of the above.

10. Which of the following is false?

- A) Verizon welcomes the decision.
- B) Consumer advocates are worried.
- C) F.C.C. has not decided to appeal.
- D) Chief Justice Roberts played no part in the decision.
- E) Judge Silberman is in total agreement with Judge Tatal is this case.

11. The separate opinion Judge Silberman wrote is called a ...

- A) dissenting opinion.
- B) concurring opinion.
- C) dictum.
- D) plurality opinion.
- E) minority opinion.

II. Choose the best answer for each question after reading the following news release (single choice, 5% each)

The FTC announced today that it stands ready to take on patent trolls. In a speech at the National Press Club, Commissioner Edith Ramirez made two big announcements. First, she revealed that the FTC will conduct a wide-ranging investigation into the conduct of patent trolls. Second, she confirmed that, when appropriate, the FTC is committed to using its antitrust enforcement powers. This is great news for innovation and very bad news for trolls.

In her speech today, Chairwoman Ramirez displayed a deep understanding of both the causes and the costs of patent troll litigation (although the FTC prefers the term 'patent assertion entity'). She explained that most troll lawsuits involve software-related patents which often include broad functional claims. We agree that low-quality, overbroad software patents are a leading driver of the patent troll problem. Chairwoman Ramirez also discussed the disturbing trend of patent trolls targeting end users. She noted that small

businesses are being hit with demand letters for using ordinary office equipment. And she explained that trolls are targeting online retailers for the use of simple features like drop-down menus. She noted that only a small portion of the cost imposed by patent trolls ever finds its way back to inventors.

We already know all of this. But the FTC can play a significant role in filling out the picture and shifting the larger debate. We saw this before when, in 2011, the FTC published an excellent report on the problems caused by vague patents. The FTC can provide similar guidance—and influence—regarding the troll problem. Patent trolls tend to operate in secret behind a web of shell companies. By using its authority under section 6(b) of the FTC Act, the agency will be able to use its subpoena power to discover what is really going on. This is why today's announcement is such big news. The FTC has both the expertise and the power to uncover the truth. We hope the agency uses them well.

In addition to announcing an investigation, Chairwoman Ramirez affirmed that the FTC stands ready to enforce antitrust laws against patent trolls. Just last month, Vermont filed a groundbreaking consumer protection complaint against a patent troll. Although we welcomed that action, we noted that the patent troll problem is a federal issue that demands a federal response. So the FTC's announcement is very timely. The agency will consider action against both patent privateers (those that assert patents as a clandestine surrogate for competitors) and trolls that engage in deceptive practices against small businesses (such as asserting patents without standing or making false threats of litigation). This will make some of the most infamous patent trolls very nervous. We hope FTC action will deter patent troll abuse nationwide.

12. What is a "troll"?

- A) A monster.
- B) A litigant.
- C) A sage.
- D) All of the above.
- E) None of the above.

13. "FTC" stands for ...

- A) Federal Transportation Commission.
- B) Fairness and Transparency Corporation.
- C) Federal Trade Commission.
- D) Federal Trust Corporation.
- E) None of the above.

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14. Judging from the tone, the news story is most likely released by ...
- A) The FTC.
 - B) Edith Ramirez.
 - C) A newspaper.
 - D) An advocacy group fighting against patent troll.
 - E) A patent assertion entity.
20. What did Ramirez say in her speech?
- A) Patent trolls are using questionable tactics.
 - B) Patent trolls may have violated antitrust law.
 - C) Patent trolls provide little help to innovators.
 - D) Patents owned by trolls are often of questionable value.
 - E) All of the above.
15. Why are "patent trolls" bad according to the author?
- A) They are unholy.
 - B) They stifle innovation.
 - C) They own software patents.
 - D) They shun courts.
 - E) All of the above.
16. Section 6(b) of the FTC Act is ...
- A) an FTC regulation.
 - B) part of a statute.
 - C) an article in the Constitution.
 - D) an European directive.
 - E) none of the above.
17. The author does not praise Ramirez for ...
- A) having deep understanding of the problems.
 - B) preparing to investigate patent trolls.
 - C) preparing to exert the agency's authority.
 - D) being the first woman to chair the FTC.
 - E) taking a timely step on the issue.
18. The announcement is made in front of ...
- A) journalists.
 - B) patent trolls.
 - C) patent owners.
 - D) consumer advocates.
 - E) lawyers.
19. Which of the following is true?
- A) The author abhors FTC's moves.
 - B) The FTC does a good job reversing its 2011 findings.
 - C) Patents trolls are too brazen to hide behind shell companies.
 - D) All of the above.
 - E) None of the above.

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