

FCC Takes Another Stab at Net Neutrality

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The FCC is launching an inquiry into the state of broadband Internet access, but commissioners are divided on whether that goes far enough.

The Federal Communications Commission is launching an inquiry to determine how broadband providers are behaving in terms of providing access to the Internet to subscribers. The Notice of Inquiry, announced at the March 22 commission meeting here, is intended to seek comments on whether providers are restricting access to sites on the Internet, whether they are giving any sites favorable treatment and whether the companies charge extra for that, and how consumers are affected. The inquiry is also designed to determine whether the FCC needs to issue a new principle of nondiscrimination.

According to a statement released by Chairman Kevin Martin, this inquiry will "provide a convenient forum for various providers, including network and content providers, to tell us what is happening in the market and about their concerns." Martin said in the statement that the FCC has a responsibility to promote infrastructure investment and broadband deployment. He also said it's important that consumer access to the Internet be protected.

However, Martin's statement didn't receive universal acclaim from the rest of the Commission. Commissioner Michael Copps, while concurring that the inquiry should be conducted, said action was also needed. In a statement, Copps said, "It is time for us to go beyond the original four principles and commit industry and the FCC unequivocally to a specific principle of enforceable nondiscrimination, one that allows for

reasonable network management but makes clear that broadband network providers will not be allowed to shackle the promise of the Internet in its adolescence."

Copps said he thinks adding another study to those already done will simply take too long and may result in nothing actually being accomplished. "We proceed too leisurely here," Copps said. "Rather than strike out and unflinchingly proclaim this agency's commitment to an open and nondiscriminatory Internet, we satisfy ourselves with one tiny, timid step ... Let's be frank. Putting out a Notice of Inquiry is not the way to sail boldly forth."

Copps then warned of the possible fate of the inquiry, saying, "History shows that Notices of Inquiry like this have a way of disappearing into the regulatory dustbin, putting off decisions that need to be made now. These are no longer new and novel questions... We should be building on what we have already approved and going with at least a Notice of Proposed Rulemaking with a commitment to move to an Order within a time certain."

Copps said the questions are no longer esoteric discussions, but rather issues that are delayed only at some peril. "We're being left behind in broadband globally, the country is paying a steep cost, and we face the stark challenge to decide if we are going to do something about it or not," he warned. "We're talking here about the greatest small 'd' democratic technology platform that has ever existed. Taking another year or two to decide if we want to keep it that way shortchanges the technology, shortchanges consumers and shortchanges our future."

Commissioner Jonathan Adelstein agreed that the time to act is sooner rather than later. "Some may suggest that there is a lack of hard evidence of a problem, but we miss important signals if we do not take these leading broadband providers at their word," he said. "Providers may be

on their best behavior for now with the spotlight turned on net neutrality. But decisions being made today about the architecture of the Internet could affect its character for years to come, so it is important that we make our expectations clear."

Like Copps, Adelstein said he thinks that issuing a Notice of Inquiry is sending the wrong signal to the industry. "Unfortunately, some parties may be tempted to read this decision itself as sending a message about how low it ranks on the Commission's list of priorities," he said. While he agreed that the inquiry should be done, he said he thought the FCC should be doing more, and said the FCC should really be issuing a Notice of Proposed Rulemaking rather than continuing to study the issue. "But we cannot stick our head in the sand on this," he said. "The future of the Internet is simply too important."

However, other Commission members said a measured approach was really what was needed now. "I am skeptical of the present need to impose new rules, or even principles," Commissioner Deborah Taylor Tate said in a statement. "I support today's measured step of seeking more information about what is going on in the marketplace - what companies and consumers are experiencing, or not able to experience," she said.

The FCC has set no specific time for the inquiry to be completed or any reports to be provided for further action.

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