

FCC chairman says 'open Internet' rules are vital (Update 2)

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File - Federal Communications Commission Chairman Julius Genachowski testifies during his nominee hearing on Capitol Hill in Washington, in this June 16, 2009 file photo. Reports published Saturday Sept. 19, 2009 say Genachowski will propose new rules designed to ensure the free flow of information and applications over the Internet in a speech Monday at the Brookings Institution. (AP Photo/Harry Hamburg, File)

(AP) -- Wireless carriers shouldn't be allowed to block certain types of Internet traffic flowing over their networks, the chairman of the Federal Communications Commission chairman said Monday in a speech that got a cool response from the industry.

Unless done very carefully, this extension of regulation risks stifling investment in Internet access, executives said.

FCC Chairman Julius Genachowski said wireless carriers should be subject to the same "open Internet" rules that the agency has begun to apply to home broadband providers. That likely means that a carrier couldn't, for example, ban the use of file-sharing services on its wireless network, which AT&T Inc. does now.

However, it's still unclear how the rules would apply in practice. For instance, carriers officially restrict how Internet-access cards for laptops are used, but rarely enforce those rules.

The government also has been investigating Apple Inc.'s process for approving programs for its iPhones, but Genachowski isn't directly addressing manufacturers' right to determine which applications run on their devices.

Essentially, Genachowski wants to codify the principles the FCC has already been applying to wired Internet traffic - and extend them to wireless.

Last year, the agency sanctioned Comcast Corp. for secretly hampering file-sharing traffic by its cable-modem subscribers. In that ruling, the agency relied on broad "principles" of open Internet access that hadn't previously been put to the test. The cable company filed suit, saying the FCC didn't have the authority to tell it how to run its network. The case is still in federal appeals court.

The chairman is now proposing to make it a formal rule that Internet carriers cannot discriminate against certain types of traffic by degrading service. That expands on the principle that they cannot "block" traffic, as articulated in a 2005 policy statement.

Internet service providers, both wired and wireless, are struggling with the question of how to distribute network capacity among their

subscribers. Heavy users can easily overwhelm cellular towers and neighborhood cable circuits, slowing traffic for everyone.

At the same time, consumer advocates and Web companies like Google Inc. want to safeguard what has been an underlying "Net neutrality" assumption of the Internet: that all types of data are treated equally. If the carriers can degrade or block traffic, they become the gatekeepers of the Internet, able to shut out innovation, these critics say.

Comcast has already changed its system to one that does not look at what types of traffic subscribers are using. Instead, it throttles back the speed of heavy users if there is congestion on the network. However, there are other companies that might fall afoul of the new principle. Cox Communications, another cable company, has been testing a system that slows traffic that it deems less time-sensitive, like file downloads and software updates, to keep Web pages, streaming video and online games working faster. Cox declined to comment.

In his webcast speech Monday at the Brookings Institute in Washington, the FCC chairman also proposed to make it a formal rule that Internet service providers have to tell customers about how they manage traffic to handle congestion. Some companies might be managing traffic in subtle ways without notifying customers.

David Young, vice president of federal regulatory affairs at Verizon Communications Inc., said he was pleased that Genachowski said he favored a light touch in setting up the new regulatory framework. If Internet carriers aren't free to experiment with different ways of treating traffic, development of the technology might be slowed, Young said.

"The concern is that it will stifle innovation, investment and growth," he said. "To dramatically change the 15-year policy of the United States government to not regulate the Internet is a pretty radical thing and

should be driven by a very real and present need to do so."

David Cohen, executive vice president at Comcast, said he welcomed the "dialogue" suggested by the FCC chairman, but also said it would be important to first figure out if there are "actual and substantial problems that may require rules."

The FCC has four commissioners in addition to its chairman. The two Democratic members said Monday that they supported Genachowski's proposal, which will give him a majority to push through the proposal. The details of the new rules will be worked out over the coming months.

Ben Scott, policy director at advocacy group Free Press, which complained to the FCC about Comcast's old network management practices in 2007, said the Internet is now of such importance that government will have to take a role in making sure it works optimally.

"It is inevitably going to have a regulatory structure around it," Scott said. "... What we're deciding is: What is it going to look like?"

On the Net:

FCC site on new rules: <http://www.openinternet.gov>

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