

# Fierce battle looms on US 'open Internet' rules

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US regulators meet Thursday to vote on rules aimed at heading off Internet "fast lanes," although it may not be the end of a years-long battle.

The "net neutrality" rules which seek to guarantee equal access to all online services are likely to spark fresh challenges in court and efforts in Congress to nullify or revamp the plan.

Federal Communications Commission Chairman Tom Wheeler earlier this month unveiled the plan to regulate broadband Internet service providers as "public utility" carriers, revamping the agency's rules struck down by a federal court last year.

The rulemaking effort elicited an unprecedented four million comments, with passionate arguments on both sides about the importance of "freedom" and the need to encourage "innovation" and investment.

"This is a big step forward for consumers," said Chris Lewis at the consumer activist lobby Public Knowledge, which has been pressing for strong net neutrality rules.

Lewis said the rules would ensure "an Internet where consumers can go anywhere they want," without seeing services or applications blocked for competitive or financial reasons.

Senator Patrick Leahy also welcomed the effort, saying it will "ban pay-

to-play deals that could strangle innovation from startups and small businesses, creating an Internet divided between the 'haves' and the 'have-nots.'"

The "open Internet" rules, which would become final if adopted by the five-member FCC, would bar "paid prioritization," blocking of legal content or "throttling"—slowing a rival service which competes with one backed by the Internet provider.

## **Heavy-handed regulation**

But critics say the Wheeler plan is heavy-handed, based on a 1934 law aimed at regulating phone companies, and claim it will stifle investment and cost consumers more, because broadband firms would not be able to generate revenue through special deals.

Michael Powell, head of the National Cable & Telecommunications Association, which represents broadband cable operators, said the FCC was moving toward "onerous regulation and could well depress investment and innovation."

Powell said the move opens the door to rate regulation despite Wheeler's claim to steer clear of this.

Former FCC commissioner Harold Furchtgott-Roth said the agency faces a difficult legal path trying to classify broadband as a public utility without imposing other regulations imposed on telecom firms.

"I don't think the commission has thought this through," said Furchtgott-Roth, who heads the Hudson Institute's Center for Economics of the Internet.

By selectively imposing regulations, he said, the FCC opens itself up to

legal challenges.

And while FCC officials have not released details of the plan, Furchtgott-Roth said the reclassification will likely mean "billions of dollars in new fees and taxes" which would be imposed either at the federal or state level.

The FCC move also sparked criticism in the Republican-led Congress, which has the authority to nullify the rules or pass legislation to reverse some of the mandates.

Republican Representative Bob Goodlatte, head of the House Judiciary Committee, said Wheeler "overestimates the FCC's authority to rewrite our nation's communications laws... and ignores the fact that his net neutrality rules almost certainly will be stuck in courts for years over questions of their legality."

## **Split decision**

The FCC action comes three months after President Barack Obama endorsed a strong [net neutrality](#) effort, saying no online service should be forced into a "slow lane."

As a result, some Republicans are denouncing the FCC move as "the Obama plan" and questioning whether the president unduly sought to influence the independent rulemaking agency.

FCC commission member Ajit Pai said in a statement that "the president's plan will lead to less competition and leave Americans with fewer broadband choices," describing the effort as an "approach imposed in Europe" which has led to less private investment.

Josh Stager at the New America Foundation's Open Technology Institute

said Pai "seems to prefer the status quo, in which broadband providers have free reign to manipulate consumers and abuse their market power."

Lewis at Public Knowledge said that in the runup to the vote "there have been a lot of ugly accusations but we are happy the FCC is moving forward."

He noted that many Internet startups take issue with notion that neutrality discourages investment—saying online services are as important as infrastructure.

Some 16,000 websites are endorsing the neutrality effort, in a coalition that includes Tumblr, Mozilla, MediaFire and online review site Yelp.

In a blog post, Yelp said that without FCC enforcement of open access, "the Internet could fall victim to entrenched, monopolistic ISPs and gatekeeper companies who would control when, how, from whom and at what cost you view content online. This threatens the very core of American freedom and values."

Twitter public policy manager Will Carty said the FCC rules would guarantee "the ability for all users to 'innovate without permission'" and "have important implications for freedom of expression."

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