

FCC chairman bows to corporations on “net neutrality”

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Earlier this month, US Federal Communications Commission Chairman Julius Genachowski set out proposals for new regulations scheduled to be voted on at the commission's December 21 meeting. The proposals, while claiming to advance net neutrality, in reality mark yet another accommodation of the Obama administration to the demands of big business.

Genachowski claimed the rules “are consistent with President Obama's commitment to keep the Internet as it should be—open and free.” Central to the outline given by the FCC chairman, however, was the decision not to reclassify broadband Internet service under the Communications Act as a Type II telecommunications service, which would make it subject to tighter controls. Without this designation, any action by the FCC is open to legal challenge.

The remarks also indicated that wireless carriers would be exempt from most of the new rules, as demanded by Google and Verizon in their joint statement in August this year.

Net neutrality refers to a set of principles designed to prevent restrictions by Internet Service Providers (ISPs) and governments on content, sites, platforms or the kinds of equipment that may be used to access the Internet. Wireless Internet, fast becoming the most popular means of accessing the Internet, is still to be exempt from the rules. Not only that, but Genachowski left open the possibility of allowing broadband providers to charge for bandwidth usage.

Genachowski stated, “Reasonable network management is an important part of the proposal, recognizing that what is reasonable will take account of the network technology and architecture involved. Our work has also demonstrated the importance of business innovation to promote network investment and efficient use, including measures to match price to cost such as usage-based pricing.”

Under the framework of “usage-based pricing,” this language opens up the possibility of a multi-tiered Internet with faster speeds for those who can pay and slower, more basic services

for those who can't—that is, the opposite of net neutrality.

In the context of the ongoing dispute between Internet backbone provider Level 3 Communications and cable giant Comcast, the chairman's remarks also expose the fraudulent character of the FCC claims that it will prevent broadband companies from blocking certain types of traffic or applications.

Level 3 issued a statement November 29 that it was being forced to pay recurring fees to Comcast in order to deliver Netflix Watch Instantly content, thus contravening a basic principle of net neutrality.

In the statement posted on its web site, Level 3 states, “Level 3 believes Comcast's current position violates the spirit and letter of the FCC's proposed Internet Policy principles and other regulations and statutes, as well as Comcast's previous public statements about favoring an open Internet.

“While the network neutrality debate in Washington has focused on what actions a broadband access provider might take to filter, prioritize or manage content requested by its subscribers, Comcast's decision goes well beyond this. With this action, Comcast is preventing competing content from ever being delivered to Comcast's subscribers at all, unless Comcast's unilaterally-determined toll is paid—even though Comcast's subscribers requested the content. With this action, Comcast demonstrates the risk of a ‘closed’ Internet, where a retail broadband Internet access provider decides whether and how their subscribers interact with content.”

As an appointee of President Barack Obama, Genachowski is keen to have some kind of rules in place prior to the Republican takeover of the House in January in order to proclaim the fulfillment of one of Obama's key election campaign promises. Any rules based upon the December 1 statement will, however, will do nothing to protect net neutrality.

The remarks have been received favorably by corporations and lobbyists. National Cable and Telecommunications

Association President Kyle McSlarrow said that previous negotiations had “produced a rough consensus on a number of points, which we believe are reflected in the order circulated today.”

The wireless industry lobbying group CTIA added, “While we maintain our belief that any action in this area is unnecessary in the dynamic and rapidly evolving wireless environment, we understand and are pleased that the proposed rules have moved away from broad Title II regulation and toward a more tailored approach that recognizes the unique nature of wireless services.”

AT&T, after lobbying heavily against net neutrality rules, welcomed Genachowski's remarks. “While any final statement of position by AT&T must await a careful reading of the actual order and rules when issued, we are pleased that the FCC appears to be embracing a compromise solution that is sensitive to the dynamics of investment in a difficult economy and appears to avoid over-regulation,” the company said in a statement.

The five-member commission consists of three Democrats and two Republicans with opinions largely divided along party lines. Republican Commissioner Robert McDowell said that the commission is set to vote to “upend three decades of bipartisan and international consensus that the Internet is best able to thrive in the absence of regulation.” McDowell said, “By choosing this highly interventionist course, the Commission is ignoring the will” of Congress.

Internet rights campaigners are placing hope in the two remaining Democratic commissioners to secure genuine net neutrality rules. The “Save the Internet Coalition” are running a banner add on their web site stating “Demand REAL NET NEUTRALITY—Accept No Substitutes.” The site appeals for people to submit a letter to Copps and Clyburn, stating. “They still have the power to save the Internet before it’s too late.”

To place hopes in any section of the political establishment to safeguard the open Internet is a big mistake. Whatever their pronouncements in favor of net neutrality, the Democrats are no less beholden to big business than the Republicans.

Commissioners Michael Copps and Mignon Clyburn have been the most outspoken members of the FCC in favor of net neutrality. Copps responded to Genachowski's statement by again calling for the broadband providers to be reclassified as Title II telecommunications.

For her part, Clyburn said she was “anxious to begin my review of the Chairman’s agenda meeting item that seeks to preserve an open and free Internet.” Avoiding any criticism of

Genachowski's remarks, she added, “The Internet is a crucial American marketplace, and I believe that it is appropriate for the FCC to safeguard it pursuant to our duties and obligations. As noted by the Chairman in his remarks this morning, clear rules of road are absolutely necessary for consumers to be protected and for broadband providers and other users of the Internet to be able to further innovate and invest.”

There is nothing in this statement that indicates opposition to the proposals of Genachowski.

The issue of net neutrality is crucial to the future of the Internet as an open platform. Since its development 20 years ago, the World Wide Web as a democratic platform for free speech has already been seriously undermined by commercialization and censorship laws. Neither side in the contending corporate entities can claim to be upholding democratic rights in the net neutrality debate, and neither can their political representatives, whether Republican or Democrat.

The free and open Internet is incompatible with a system based on the private accumulation of profit and private ownership of key components of the Internet itself. As new technologies develop and new business sectors emerge, there is a struggle for control of new markets and channels of distribution, and the Internet becomes evermore central to this.

For the giant corporations, the Internet is a means to an end—profit. For their political representatives, the Internet as a free and democratic platform is seen more and more as a liability. Alongside the commercial threats to the future of the Internet is the even greater threat from government censorship. As witnessed in the attacks on WikiLeaks, the Democrats and Republicans are united on this central issue.



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