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Hillicon Valley

THE HILL'S Technology Blog

edited by Kim Hart

Think tanks, public interest groups weigh in on ruling against FCC in net neutrality fight

By Kim Hart - 04/06/10 02:01 PM ET

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Today's court ruling that overturned the FCC's 2008 order for Comcast to stop interfering with traffic has caught the attention of every organization and company that cares about net neutrality.

Here's a sampling of the statements we've received from both sides of the net neutrality debate.

From groups against net neutrality...

Thomas Lenard, President of the Technology Policy Institute:

"I am pleased to see the D.C. Circuit Court came to the correct decision in this case. From a policy perspective, the type of "network neutrality" regulation at issue is not in the best interest of consumers and the Court's decision indicates that the FCC does not have the authority to impose such regulation.

"I am concerned, however, that the Commission may now attempt to reclassify broadband as a telecommunications service, subjecting it to traditional public utility-type regulation. In my opinion, this would be a grave mistake that would undermine the goals of the recently-released National Broadband Plan."

Randolph May, President of Free State Foundation

"It is now clear that the best course for the FCC is to suspend work on its proposed net neutrality regulations. If the agency believes some form of Internet regulation is desirable, it should work with Congress to fashion a new statutory framework. Indeed, the court's decision ought to provide an impetus for Congress to begin a rewrite of the Communications Act which ties the Commission's regulatory activity over broadband explicitly to evidentiary showings of abuse of substantial market power and demonstrable consumer harm.

"This would provide the FCC with an appropriate basis to address any abusive practices by Internet providers. If the Commission were to decide to impose Title II common carrier regulation on Internet providers, it

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would ignite a firestorm that would set communications policy making back a decade or so."

Jim Harper, Director of Information Policy Studies at Cato Institute:

"The court's decision marks another turning point in the debate over whether the federal government should regulate Internet access services. What's entertaining about it is that the problem was solved two years ago by market processes—sophisticated Internet users, a watchdog press, advocacy groups, and interested consumers communicating with one another over the Internet.

"The next step will be for advocates to run to Congress, asking it to give the FCC authority to fix the problems of two years ago. But slow-moving, technologically unsophisticated bureaucrats do not know better than consumers and technologists how to run the Internet. The FCC's "net neutrality" hopes are nothing more than public utility regulation for broadband. If they get that authority, your online experience will be a little more like dealing with the water company or the electric company and a little less like using the Internet."

From net-neutrality supporters:

Markham Erickson, Executive Director, Open Internet Coalition:

Today's DC Circuit decision in Comcast creates a dangerous situation, one where the health and openness of the Internet is being held hostage by the behavior of the major telco and cable providers.

"The Court has taken an aggressive position, rejecting the FCC's legal authority to implement broadband Internet policy under Title I of the Communications Act. The legal challenge to Title I authority by Comcast has created an outcome where the FCC has no option but to immediately open a proceeding to clarify its authority over broadband network providers under Title II.

"The Court's sweeping decision eliminates the Agency's power to either enforce the Internet Policy Statement or possibly to promulgate new open Internet rules to protect consumers and small businesses under Title I. As a result, the FCC is now unable to police the Internet against anti-competitive and anti-consumer behavior by broadband providers, and may not be able to implement many of the elements of the National Broadband Plan, including comprehensive Universal Service Fund (USF) reform.

"The court recognized this issue and appeared to invite the Commission to proceed against Comcast and other broadband Internet access providers under Title II. Establishing limited Title II authority with restraint and forbearance over broadband Internet access will remedy the Agency's own now-discredited attempt to cobble together ancillary authority under Title I. That effort, undertaken by the previous Administration, was based on numerous incorrect legal, technological, and market assumptions. By contrast, Title II authority rests on sound factual and legal grounds, and will serve as a strong foundational basis for the FCC to protect access connections for consumers and small businesses."

S. Derek Turner, Research Director for Free Press:

"The decision has forced the FCC into an existential crisis, leaving the agency unable to protect consumers in the broadband marketplace, and unable to implement the National Broadband Plan. As a result of this decision, the FCC has virtually no power to stop Comcast from blocking websites. The FCC has virtually no power to make policies to bring

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websites. The FCC has virtually no power to make policies to bring broadband to rural America, to promote competition, to protect consumer privacy or truth in billing. This cannot be an acceptable outcome for the American public and requires immediately FCC action to reestablish legal authority.

"This crisis is not a result of a weak Congressional law, but a direct consequence of the previous two Commission's misguided and overzealous attempts to completely deregulate America's communications networks. Past FCC actions created a huge loophole in the law that leaves the agency unable to protect consumer privacy or promote universal broadband access.

"The FCC must have the authority to carry out its consumer protection and public interest mission in the 21st century broadband marketplace. The current Commission did not create this existential crisis, but it now has no choice but to face these tough jurisdictional questions head on, and do what is necessary to protect consumers and promote competition."

Parul P. Desai, Vice President of Media Access Project:

"I am disappointed in the Court's finding that the Commission did not make the case for its authority to take action against Comcast's blocking of BitTorrent. Media Access Project continues to maintain that the Commission must have the authority to protect all Internet users against harmful and anticompetitive conduct by Internet service providers. We will continue to work with the Commission to ensure that it has the ability to protect the rights of Internet users to access lawful content and services of their choice, without interference from the ISP.

"Because this case has turned into a lawyers' debate over technical issues, it is easy to lose sight of its importance to freedom of speech and expression. ISP interference to lawful uses of the Internet must not be tolerated, and the Commission must have the power to adopt rules to prohibit such practices."

Comments (2)

I find it interesting that the organizations quoted above which favor "network neutrality" regulation are all connected to Google. It appears that Google has quite a lot of captive lobbying groups in DC, many of them posing as "public interest" organizations! In fact, the public interest is best served by respect for the rule of law (including the limits on the FCC's authority) and by enabling Internet competition rather than strangling it with regulation.

BY **BRETT GLASS** on 04/06/2010 at 15:26

every one loves google. except other corporations. oh and microsoft.

BY **LLOYD C** on 04/06/2010 at 23:44

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