

Broadband Priority Lanes: Super Toll Road or Road to Abilene?

Verizon's and Google's CEOs recently announced a suggested broadband legislative framework for consideration by lawmakers, with seven key elements. As summarized on Google's public policy blog, they are:

- 1) make the FCC's current wireline broadband openness principles fully enforceable;
- 2) adopt a new prohibition against discriminatory practices prioritizing or favoring lawful Internet content or traffic;
- 3) create enforceable transparency rules to give consumers information about offered services, and broadband providers would provide information about network management practices;
- 4) the FCC would enforce openness policies using a complaint-driven process;
- 5) allow broadband providers to offer additional, differentiated online services;
- 6) exempt wireless from "most of the wireline principles", except for the transparency requirement, and
- 7) focus the Federal Universal Service Fund ("USF") on deploying broadband in areas where it is not now available. A more detailed summary of these seven principles is available [here](#).

In simple terms, this proposal would create a two-tiered Internet service, allow fee-based faster networks, and largely deregulate cellular-based Web services. For example, under the proposal companies could charge more for "additional, differentiated online services," such as YouTube video service or 3D movies in priority lanes. The proponents argue that this agreement would "provide certainty that allows both Web startups to bring their novel ideas to users, and broadband providers to invest in their network." Critics argue, among other things, that the proposal undermines the open and free Internet, that it discriminates among forms of Web traffic in contrast to the FCC's recent net neutrality proposals that would prevent such preferential treatment of traffic. Critics also argue that this proposal encourages broadband providers to allocate more capacity to priority traffic at the expense of the more traditional Internet. FCC Commissioner Michael Copps wasn't impressed with the agreement either, saying that "[i]t is time to move a decision forward—a decision to reassert FCC authority over broadband telecommunications . . . and to put the interests of consumers in front of the interests of giant corporations."

So is this a good idea or not? Is it a well-crafted super toll road, or is it more like Jerry Harvey's The Road to Abilene, going somewhere nobody wants to go? Clearly no broadband proposal will make everyone happy. Cellular broadband providers such as Verizon, AT&T, and Sprint would certainly benefit from the largely deregulatory proposal to exempt wireless services from net neutrality. The proposal would also be good for broadband providers because it allows them to recover their investment from the fee-based provision of priority broadband traffic. But would it foster the development of

high speed video networks at the expense of traditional Internet service? Will it ultimately increase the cost of basic Internet service? Does it discriminate against traditional Internet service, in favor of high speed video broadband networks? Is creating a superhighway for video and other priority broadband traffic a good use of USF funds? Stated differently, should folks in slow traffic lanes help pay for those traveling in the fast lanes, or should fast lane users help pay the cost of those using the slower lanes? Time will tell, as the FCC continues to grapple with these and other issues in the wake of the recent Comcast decision that raised serious questions about the FCC's ability to regulate broadband.

We welcome your thoughts.

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