Mahoney comments on proposed FCC Internet rules

Internet-Traffic Rules Will Change How AT&T, Netflix Do Business

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By Olga Kharif and Scott Moritz

(Bloomberg) -- Tom Wheeler, chairman of the U.S. Federal Communications Commission, outlined a sweeping new set of proposals regulating how companies deliver data over the Internet.

The rules, which would end more than a decade of debate over the open Internet, are designed to protect consumers by barring companies from blocking or slowing Web traffic.

Wheeler outlined his proposal in an op-ed in Wired, recommending that cable and wireless-service companies not be allowed to prioritize delivery of one service or piece of information over another. In a nut shell, all Web traffic should be treated equally.

If the recommendations are approved in the FCC's vote Feb.

26, what will these rules really mean for cable companies, telecommunications firms, content providers like Netflix Inc. and -- most importantly -- consumers?

CABLE COMPANIES

For cable companies such as Comcast Corp., Time Warner Cable Inc. and Charter Communications Inc., which all offer Internet service to their customers, the rules could have been worse. While they tie cable companies' hands by barring certain fees for faster service, they steer clear of price controls.

Besides assuring he won't interfere with rates, Wheeler said he won't force cable companies to share with competitors their broadband lines to customer homes.

Shares of Comcast, Time Warner Cable and other cable companies rose as the biggest pricing fears were calmed -- at least for now.

That doesn't mean the agency won't use its authority to regulate prices later, and that's putting the industry on edge, according to Brad Barker, an analyst with Bloomberg Intelligence. All Internet service will be subjected to a part of the communications law known as Title II, written last century to regulate phone service over copper lines. That means broadband providers will be regulated more like utilities, and such heavy-handed regulations may deter investors, according to Michael Mahoney, senior managing director at Falcon Point Capital LLC.

“We remain concerned that this proposal will confer sweeping discretion to regulate rates and set the economic terms and conditions of business relationships,” according to the NCTA, which represents the U.S. cable industry.

WIRELESS NETWORKS

Wireless providers are facing a lot more regulation than they’re used to.

Wheeler wants to expand oversight to include wireless network owners like AT&T Inc. and Verizon Communications Corp.

For the first time, open-Internet protections would apply to the information sent over mobile networks to smartphones.

“Although this makes sense given the realities of broadband usage, it presents a genuinely difficult challenge in defining ‘reasonable network management,’” Paul de Sa, an analyst at Sanford C. Bernstein & Co., said in a note to clients.

Wireless networks have to be managed to reduce congestion, and that’s typically been done through automated traffic-control systems that constantly direct flow and speeds, de Sa wrote.

That may be challenged under the new rules.

The phone companies are gearing up for potential legal battles if they are lumped in with the utility-style rules.

While the matter bounces around in the courts, they could cut their spending on infrastructure, the companies have warned.

Regulating the Internet is counterproductive and will “chill investment,” Verizon said in a statement Wednesday.

VIDEO PROVIDERS

The new rules are generally seen as a victory for companies like Apple Inc., Google Inc.’s YouTube and Netflix, which may not be forced to pay Internet service providers millions in extra fees in order to prioritize their content. That said, some of the existing payment arrangements may fall outside of the rules, and still hold.

Take Netflix, for example. The company contends that it’s not paying anyone for a fast lane for its content. Instead, Netflix recently said in a blog that it and other content providers “have been forced to pay Comcast, Verizon, AT&T and Time Warner access fees to reach our mutual customers” to avoid network congestion. The agreements don’t prioritize Netflix’s data, the company said. Such payments may continue.

Wheeler’s proposal would assert authority over such deals between online video companies and broadband providers that carry their videos to subscribers. Companies could bring complaints to the FCC and the agency could take enforcement action if the deals “are not just and reasonable,” according to a fact sheet distributed by the agency.

“If such an oversight process had been in place last year, we certainly would’ve used it when a handful of ISPs opted to hold our members hostage until we paid up,” Anne Marie Squeo, a spokeswoman for Netflix, said in a statement.

CONSUMERS

At first glance, the new rules will be a win for consumers, ensuring “the Internet remains open, now and in the future, for all Americans,” as Wheeler said.

Commoditized pipes could mean cheaper Internet access. And without having to pay some extra fees to deliver their news and videos, content providers could potentially pass the savings on to consumers.

But for the most part, the rules would ensure that not much changes for consumers. Because the debate over so-called net neutrality has raged on for so long, Internet service providers have mostly refrained from prioritizing, blocking or throttling traffic.

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