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Palo Alto Online News

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FCC holds hearing on Internet access

Free speech threatened by 'corporate gatekeepers,' some say

by Arden Pennell
Palo Alto Weekly Staff

The future of Internet use — and First Amendment rights to free speech, some said — was discussed at a roughly seven-hour hearing convened by the Federal Communications Commission with panels of experts at Stanford University Thursday.

At issue was whether, and how, the federal government should regulate companies that sell Internet access to help relieve growing Web congestion.

"Few choices in the history of the FCC carry as much weight as this one does. ... The future of the Internet for everyone depends on it," said Ben Scott, policy director at open-media advocacy nonprofit Free Press.

Speaking at a panel about consumer access, Scott urged the commission to enforce its current policy that Internet-service providers may not block users from certain information or services.

The commission's investigation of the issue was sparked by complaints last summer that Internet-service provider Comcast was preventing consumers from using BitTorrent, a file-sharing application, when the Web was busy in order to free up bandwidth.

It was the FCC's second such hearing.

For the first, at Harvard University on Feb. 25, Comcast hired people off the street to pack the audience and prevent the public from gaining entry.

Comcast and representatives of large Internet and cable companies declined to attend Thursday's hearing.

Yet two expert panels and at least 300 members of the public were present to debate the principle of "net neutrality," or that all Web traffic be treated equally, even though some use, such as video or music downloading, takes up more bandwidth.

Some called the question of net neutrality and federal regulation a First Amendment issue.

Free speech must not sit in the hands of "corporate gate keepers" who can block users from certain types of information, Nicole Ozer of the ACLU of Northern California said in the public-comment period. The future of the Internet as a "marketplace of ideas" depends on the commission enforcing equal-access rules, she said.

Others, including economists and the director of a smaller Internet-service provider in Wyoming, Lariat.net, which lacks Comcast's near-monopoly market dominance, called regulation a financial issue.

Brett Glass, Lariat.net's CEO, said companies like his don't have the bandwidth to handle large volumes of big, bulky downloads. Many file-sharing applications, such as BitTorrent or Skype, don't provide bandwidth but rather use that available through the consumer using the application. The consumer then passes on costs to the company providing his or her Internet access, he said.

"Peer-to-peer [applications] is not a free speech issue. It just shifts costs," he said, noting his company prohibits peer-to-peer applications in its user contract.

People using bandwidth-gobbling applications should pay more for the privilege — his firm charges more for more intense Web use, he said.

The one-size-fits-all version of Internet sales popular among larger providers such as Comcast, with which users pay a fixed rate regardless of use, could be jettisoned in favor of individualized packages, agreed moderator Barbara van Schewick, an assistant professor at Stanford Law School. The customized model of Internet use is popular in Europe, she said.

Metered pricing, or charging for Internet use like gasoline, was also discussed as a possible solution to Web congestion.

Questioned by Commissioner Robert McDowell, no speakers from the consumer-access panel — including economists, an engineer, free-speech advocates such as Scott and business owners such as Glass — disputed the premise that Internet users should pay more for faster-speed or higher-bandwidth service.

That was a marked change from the FCC's 2005 hearings on Internet use, McDowell said.

Two economists told the commission to increase competition among Internet-service providers to head off attempts to control how individuals use services.

"Everything you do should be aligned towards increasing competition," said Gregory Rosston, deputy director of the Stanford Institute for Economic Policy Research. He said the commission should help smaller companies enter the market by reducing subsidies to "incumbents" such as Comcast, a current practice he called "incredibly anti-competitive."

Yet George Ford of the Phoenix Center for Advanced Legal and Economic Public Policy Studies said regulation would decrease competition among companies.

He urged the panel not to regulate and called Comcast's earlier use-blocking a "market failure," rather than a moral failure, sparking boos from the audience.

"I'm a citizen, not a consumer!" one man yelled.

Drawbacks to leaving file-sharing programs completely unregulated were also discussed in a panel on networks and consumer expectations.

Rick Carnes, president of the Songwriters Guild of America, said musicians' livelihoods were threatened and sometimes destroyed by music piracy.

And some members of the public, commenting in an open forum after the expert testimony, disputed the notion of staggered prices

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The "pay-to-play" premise hurts community-news providers, which rely on the Internet for information, according to Erica Bridgeman of Berkeley-based radio station KPFA.

Those already struggling and largely disenfranchised, such as the poor and immigrant workers, would be further left behind if Internet access became a costly commodity rather than a right, according to Lisa Gray-Garcia, co-editor of POOR magazine.

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