

The FCC Is Charged With Removing Barriers to Entry and Promoting Competition

For any prospective or current business owner, barriers to entry in the markets they need to reach are a primary concern. Removing or minimizing the barriers in the way of reaching these markets, and making sure that companies have tools they need to do business, is essential to promoting competition and innovation.

A variety of Internet businesses and investors have urged the FCC to prevent phone and cable companies from blocking access to potential customers, or increasing their costs with new tolls. Unpredictable costs for broadband -- which is these businesses' primary input -- and worse access to markets and customers, quickly leading to diminished competition and innovation. Having predictable business costs and market access is also critical when these companies are seeking investors. As a result, thousands of Internet investors and businesses have encouraged the FCC to create bright line rules that remove this uncertainty and provide a healthy environment for investment.

"We have made our investment decisions based on the certainty of a level playing field and of assurances against discrimination and access fees from Internet access providers. Indeed, our investment decisions in Internet companies are dependent upon the certainty of an equal-opportunity marketplace."¹

-Over 100 venture capitalists and angel investors

¹ Letter from FCC Chairman Wheeler from Union Square Ventures, May 9, 2014, available at <http://apps.fcc.gov/ecfs/comment/view?id=6017634129>.



Big Telecom's Double-Standard

Phone and cable companies have strongly opposed calls for strong FCC rules even though these same companies do not tolerate such uncertainty in their own operations. In fact, they regularly demand FCC action to limit costs and to open markets on numerous occasions.

For instance, phone and cable companies use telephone and utility poles for their own wires and infrastructure. This is a primary input for their provision of broadband service. And pole access is fully rate regulated, at a rate so low the pole owners say it results in billions in lost revenue each year.²

"NCTA continues to support pole attachment rules that provide both cable operators and telecom carriers access to poles upon rates, terms and conditions, that are just, reasonable and non-discriminatory."³

Beyond guaranteeing price stability for broadband providers, the FCC has also removed hurdles for their market access. When telephone companies began providing television service, they urged the FCC to prevent cable companies from shutting off their access to programming. Verizon warned the FCC that the cable industry intended to "impos[e] maximum delay and expense on Verizon in order to improve their own competitive position."⁴

Verizon: "the Commission should address and prevent those practices that amount to an unreasonable refusal to award a competitive franchise....And it should take steps to address other anti competitive practices engaged in by the cable incumbents in an effort to delay or prevent competitive entry"⁵

Similarly, phone companies said they were prevented from reaching customers in apartment buildings by exclusive arrangements that those buildings had with cable companies. The FCC prohibited these arrangements because they "foreclose[d] new entrants from many millions of households."⁶

² Greg Stohr, "Utilities Spurned by Top Court on Phone Company Pole Fees," Bloomberg, Oct. 7, 2013, available at <http://www.bloomberg.com/news/2013-10-07/utilities-spurned-by-top-court-on-phone-company-pole-fees.html>

³ Reply Comments of National Cable and Telecommunications Association, WC Docket No. 07-245, GN Docket No. 09-51, Oct. 4, 2010, available at <http://apps.fcc.gov/ecfs/document/view?id=7020915548>.

⁴ Comments of Verizon, MB Docket No. 05-311, Feb. 13, 2006, available at <http://apps.fcc.gov/ecfs/document/view?id=6518328270>

⁵ Comments of Verizon, MB Docket No. 05-311, Feb. 13, 2006, available at <http://apps.fcc.gov/ecfs/document/view?id=6518332224>

⁶ Federal Communications Commission, Report and Order and Further Notice of Proposed Rulemaking, MB Docket No. 07-51, Rel. Nov. 13, 2007, available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-07-189A1.pdf.



AT&T: “the Commission should immediately exercise its clear authority to prohibit video providers from entering or enforcing these exclusive access agreements”⁷

Internet businesses are doing nothing more than request that the FCC remove the proven barriers to competition and innovation. Broadband providers have recognized -- when it suits their bottom line -- that these kinds of barriers diminish competition and reduce investment. By putting reasonable protections in place to remove barriers to entry for websites and over the top services, the FCC can make sure consumers enjoy the fruits of competition and innovation.

⁷ Reply Comments of AT&T Inc., WT Docket No. 07-51, Aug. 1, 2007, available at <http://apps.fcc.gov/ecfs/document/view?id=6519609265>.

