

How to turn a fast lane into a slow lane

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When it comes to updating our telecom laws, we have taken our proverbial eyes off the prize.

We should be focusing on franchise reform, which would remove (in the Federal Communication Commission's own words) the "most important policy-relevant barrier to entry" for video and broadband competition and finally get the "twin titans" of the cable companies and the phone companies to duke it out.

Instead, we're becoming sidetracked by a hasty push for stringent legislation to remedy the undefined concept of Net neutrality, without careful analysis of the possible consequences.

Not only would working Americans stand to lose \$8.2 billion in consumer welfare benefits if policymakers delayed meaningful franchise reform by just one year, new broadband deployment would also come to a screeching halt. Thus, instead of harvesting the fruits of competition, said policymakers would likely restore a world of monopoly and high prices.

Indeed, before imposing Net neutrality legislation, we better be sure what we mean, and we better understand its impact on industry structure.

For example, if Net neutrality means that the FCC will punish network operators who seek to sabotage competitive providers of voice over Internet Protocol (VoIP), then I support such a policy 100 percent. To its credit, not only has the FCC aggressively taken steps to stop such conduct ([last year's infamous Madison River case](#)); but it also has publicly stated, in its 2005 Net neutrality policy statement, that it has the authority to prevent network owners from blocking or degrading third-party VoIP services. Accordingly, the commission pointedly reminded all concerned that the Communications Act's fundamental goal--ensuring for all Americans "a rapid, efficient, nationwide...communication service with adequate facilities at reasonable charges"--will remain fulfilled.

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Still, there's a huge analytical leap between preventing patently anticompetitive conduct and having the government tell operators how to manage their networks in the name of network neutrality. Unfortunately, as election politics loom large, many in Congress are ignoring this important distinction. They instead are seeking to rush through legislation that would essentially [commoditize the Internet into a "stupid" network](#), without understanding the potential adverse consequences.

Should Congress heed calls to commoditize the Internet into a "stupid" network where all packets are treated identically, it could result in more industry concentration and, potentially, a return to monopoly. In contrast, the literature indicates that allowing some form of product differentiation among networks will promote more investment and innovation and help mitigate the potential for collusion among the companies left in the market.

Similarly, other research shows that if IP video services increase in popularity, providing a residential subscriber with a "stupid" network that is video-capable could cost \$300 to \$400 per month more than an "intelligent" network. In the real world, a network that costs that much is unlikely to get built because few consumers could afford to pay for the service.

Simply put, a "bright line" Net neutrality rule will simply do more harm than good. Network neutrality rules need to be scrutinized with a thorough cost-benefit analysis--something "stupid network" proponents have yet to do--before they are rushed into law. As David Farber, the highly respected technology chief of the FCC during the Clinton-Gore Administration, recently noted: "The thought of Congress legislating without understanding this issue scares me."

Well, me too.

It's well-known that there are no white hats in the telecommunications and Internet businesses. Yet, so long as Congress refuses to grant meaningful franchise reform without also tacking on ill-conceived Net neutrality rules, don't be surprised if we have no new broadband deployment at all--just a slow lane for everyone.

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