



Overview of FCC Action on Net Neutrality February 26 FCC Meeting

Summary

- In a 3-2 vote along party lines, the FCC voted to impose additional regulatory oversight onto the nation's broadband networks by placing BB under Title II regulation.
- The Commission established three "bright line" rules governing Internet service: no blocking, no throttling, and no paid prioritization.
- The decision will be challenged in the courts, but will remain in effect (barring the issuance of a stay by the FCC or courts) during any appeals.
- The Republican-led Congress is also trying to enact new legislation that would deal with this issue, but any contrary legislation is likely to be vetoed by the President.

Six Important Points for Rural LECs

1. **Interconnection** – Reasonable interconnection is vital for rural providers. Yesterday's decision requires just and reasonable interconnection, but specifics won't be known until the text of the order is released. The FCC press release noted:
For the first time the Commission can address issues that may arise in the exchange of traffic between mass-market broadband providers and other networks and services. Under the authority provided by the Order, the Commission can hear complaints and take appropriate enforcement action if it determines the interconnection activities of ISPs are not just and reasonable.
2. **Exemption from New Disclosure Requirements** – Internet service providers (ISPs) will be required to disclose, "in a consistent format," rates, fees, data caps, measures of network performance, and certain other terms. ISPs with fewer than 100,000 customers are exempt from those requirements until the FCC's Consumer and Governmental Affairs Bureau rules otherwise. Most RLEC-owned ISPs have fewer than 100,000 customers and so will be at least temporarily exempt.
3. **Consumer Impact** – This decision largely addresses how ISPs treat Internet traffic, not individual consumers. For example, a consumer who has ordered and is paying for 10 Mbps of speed from an ISP capable of delivering 1 Gbps can still be throttled back to the 10 Mbps.
4. **Standard for Future Conduct** – Aside from the three bright line rules, the FCC also established a more general provision prohibiting ISPs from doing anything to "unreasonably interfere with or unreasonably disadvantage" access to lawful content. Expect substantial proceedings over the next few years to better define the impact of that ambiguous provision.
5. **Universal Service Support** – The Order does not require ISPs to contribute to USF for data-only connections. The Order will, however, "bolster universal service fund support for broadband service in the future through partial application of Section 254."
6. **Light Regulatory Approach?** – The FCC did forbear (decided not to enforce) 27 provisions of the Title II regulatory framework. For example, the Commission will not require tariffs for Internet service, nor will it conduct rate or price reviews prior to implementation. The FCC can rule, after the fact, however, that rates are "unreasonable." The dissenting Commissioners noted forbearance can be undone by the FCC and raised concerns the light regulatory touch would be short-lived.

For more information on this FCC decision, contact Doug Eidahl (doug.eidahl@vantagepnt.com) or Dusty Johnson (dusty.johnson@vantagepnt.com) at Vantage Point Solutions.