

Unless and until broadband providers are forced to provide real competition by providing best-service sharing of the last mile infrastructure at cost to competitors with separate divisions to handle technical service, there can be no real competition in broadband services. Each technology has its own local, government-created monopolist who has extracted rents from the American public through the value of a government-enforced monopoly on last mile infrastructure for that given technology.

Since each technology effectively creates a new tier of service (DSL at the bottom, Cable in the middle, and, where not blocked from negotiating a new franchise with a locality by pressure from an existing monopolist, fiber at the top), the competition among them is not apples-to-apples. Beyond the limit for DSL, only cable and fiber can even service some areas. Satellite can only provide download speeds and the nature of network applications make the POTS (Plain Old Telephone Service)-based outbound channel unsuitable for the kinds of interactive applications expected by consumers. These, quite frankly, are apples-to-oranges "competition", no matter what certain network providers would like the FCC to believe.

Until Congress moves to undo the harm it did to broadband competition, the FCC has no choice but to issue reasonable regulations to ensure that any packet of IP information is treated the same as any other packet, with appropriate exceptions for calls on wireless telephone networks and emergency information, or for packet-neutral limitations on individual use for purposes of quality-of-service assurance.

The FCC must do this to support existing legislation designed to guard against fraudulent advertising. "Internet service" inherently assumes that all services are equally available at the access levels sold to the consumer. This means that a broadband provider may advertise 5 megabit download speeds as long as all internet-protocol-based services receive that 5 megabit capability from the broadband provider. Anything else may be electronic network access, but it is not "internet" access and should be forbidden starting on these grounds. Additionally, such regulation should enforce transparency so consumers know exactly what restrictions and realistic expectations of service they may be purchasing.

The broadband providers should not be prevented from creating alternate, private, non-internet networks to which they may sell access and manage under any terms they see fit. But if they are to sell "internet" access, they must abide by the principles that caused the Internet to win out over the private networks such as CompuServe, AOL, or Prodigy in the early 1990s.

These regulations themselves should be as simple and neutral as possible to ensure a level playing field for all entrants to the internet service or provider market. Additionally, the FCC should recommend legislation to Congress establishing ways to: 1) either break up local last-mile technology monopolies or enforce equality of access and equality of cost so competing providers are not second-

class citizens on a given technology, 2) ensure standardized and rapid franchise agreements for new entrants with new or existing broadband technology, and 3) ensure

Above all, any regulations should ensure that no provider may, under cover of "network quality of service management," manage their network in a way that favors a service owned or somehow affiliated with themselves over a competing service unaffiliated with that provider, nor may they impede access to any legal service with whom they may have a dispute or with whom they disagree.