

AT&T's proposed acquisition of T-Mobile USA will shine a light on the Federal Communication Commission's view of the wireless industry's "state of competitiveness." Given the rapidly changing communications landscape, it might also be a good time to consider what the role of the FCC should be over the next decade.

If the FCC were to ask consumers what they want, the answer would be pretty simple: anytime, anywhere high-speed network access, from any device, at an affordable price. Let's give the average consumer credit in assuming that they are prepared to pay a fair price for this capability. I also believe that in their heart of hearts, consumers believe network providers and content producers should make a reasonable return on their investment, considering this is a market economy. Given this, is today's FCC, in focus and approach, aligned with these needs? Let's look at this across three key criteria.

1. Wireless Industry Structure

For fifteen years, our tax dollars have been paying for the FCC to release an "Annual Report on the State of Competition in the Wireless Industry." The 2010 report, for the first time, concluded that the wireless industry is "not competitive," due to continued consolidation. Yes, some consumers have less choice of providers than they might have a few years ago. But since when was it determined that having seven or eight facilities-based providers in a given market is good for consumers? Given that one can get a great smartphone or tablet device from nearly any wireless operator, isn't it better to have fewer, really good networks than a larger number of mediocre ones? I'd bet consumers would be prepared to forgo some choice for "better network, sooner."

Even the notion of what consumer choice in wireless represents must be re-thought. We have a pretty vibrant wholesale/MVNO/flank brand market today, from Tracfone/Virgin/Boost to Apple/Wal-Mart/Best Buy. Furthermore, devices as mobile hotspots further blur traditional distinctions (i.e. you can have a 4G iPad today, if you want one).

If we assume most consumers would trade off some choice for more and better network sooner, how does it affect the FCC's view of the wireless industry in its more consolidated form? If, in circa 2015, there are three or four nationwide 4G networks (AT&T, Verizon, Sprint/Clearwire, LightSquared), the U.S. will still be among the world leaders in wireless broadband capability and choice. And wireless still stacks up well when compared to any other segment of the communications sector or many other industries, for that matter.

If the FCC must provide some challenge to industry consolidation, it should require AT&T to provide some guarantees/timetables around capacity expansion and 4G buildout. The FCC could also ensure fair wholesale pricing, which would lead to expanded "choice" of service providers.

2. Spectrum Policy

Given the pace of device and network innovation, and the near unquenching consumer thirst for "more network," the FCC has failed to define, with any level of precision, how much, how soon, to whom, and by what process, more spectrum will become available. AT&T/T-Mobile is a strong statement that if the FCC won't move the discussion, then the market will.

Also misguided, in my view, is the notion of "spectrum auctions." The tens of billions of dollars that have been raised through the sale of spectrum have gone into the Dept. of Treasury general fund, and after that, who knows where. So not only are these dollars not being put back into our industry, the cost of the spectrum is ultimately being passed on to consumers in the form of higher service fees. On top of that, we tapped stimulus funds for the "Rural Broadband Initiative," whose implementation has been lethargic, scattershot, and highly politicized.

If spectrum allocation must be a revenue-generating exercise, I would urge the FCC to insist that the proceeds be plowed right back into the industry, and be used for any of the following:

Spectrum reallocation/refarming

Incentives for network buildout in less dense/underserved areas

Subsidies for those who cannot afford broadband

R&D for network innovation

3. Service Pricing

The FCC, and some pro-consumer groups/industry players are concerned that market consolidation will lead to higher wireless service prices.

Along these lines, a question: how many complaints has the FCC received about pricing for smartphone service plans? Mobile internet prices have held steady or have dropped over the past three years, and there's an expanding choice of pricing options across the pre-pay/post-pay/MVNO universe. The recent Sprint-Clearwire agreement, and the various deals for LightSquared's proposed "under \$10 per gigabyte" wholesale pricing, provide some confidence that industry consolidation does not translate to cable-esque service price increases.

One also should recognize that the structure of service pricing will undergo rapid change, as we accommodate multiple devices per person/household, the demands of multimedia on mobile, MiFi, portable hot spots, and so on, mixing and matching WiFi and cellular data. These factors, combined with a still competitive industry structure, make it presumptuous for the FCC to assume wireless service prices will rise disproportionately.

In all, I'd encourage the FCC to balance consumer demands for "more network, sooner," against the needs for a healthy industry structure and strong U.S. competitive position, in a time where the market has given us the most innovative period in communications industry history, with more to come.