This sounds extreme, but Comcast continues to push the boundaries in separation of its broadband service with its cable service. It is walking a thin line between being a broadband provider, offering fast Internet access to millions of subscribers, and treating its Xfinity Xbox 360 App as a priority over customers not having its cable service. Saying the Xbox 360 is just another set-top-box for its own customers is just a complex way of undermining Net Neutrality rules as defined by the FCC upon the companies purchase of NBCU.

Is Divestiture a Warranted?

Companies are always pushing the limits of rules and regulations, and Comcast is no exception in this case. If continued disregard of basic neutrality principles, using its broadband service as a vehicle to discriminate against other competitors is not enough evidence to call for divestiture; then what will it take to emphasize the implications for an OTT (Over-The-Top) video market that is being disadvantaged by prioritization from a horizontally controlled service. There must be consideration and debate as to whether Comcast, as a broadband provider and a cable provider, has undue influence in market control, being such a large and dominate provider of both services. See (He said, she said: Is Comcast prioritizing traffic or not?)

Boundaries Must Be Set

Taking a page from the playbook in the dispute with programmers over the right to allow access to cable programming on multiple devices, represented in changes of market dynamics from set-box-box viewing to multiple device viewing, both inside and outside the home; cable operators insisted those devices were just another STB. Taking this concept a step further, Comcast is using the argument that the Xbox 360 App is just another viewing device for its customers, which under Title VI, does not fall under public Internet consumption, but viewing on a private network.

DOJ-FCC Question

The implications, however, are far reaching and may set a precedent in companies with horizontal services being allowed to manipulate competitive forces to favor themselves. If this is ultimately, the argument, then Comcast should bow out of either its broadband service or cable service to remove the inference. This is a DOJ (Department of Justice)/FCC question which should be looked into further. As companies like Comcast are allowed to grow in dominate market status, their actions can up-end market forces in an undeniable adverse way, if allowed. See (Comcast’s Xfinity app for

Xbox 360: a new battleground in net neutrality)

Confidence in Past Court Appeals

Comcast has been successful in past court appeals such as the FCC Bit Torrent Throttling Case in which a DC court ruled the FCC had limited authority in Internet ruling making. Obviously companies like Comcast have the resources to fight such infringements of its actions, tying up regulators in court for months or even years. Again, we are beginning to see signs that a market-dominate Comcast can infringe its authority with somewhat impunity to unbalance competitive forces, if it wishes to do so. See (Title VI – High Speed Access to the Internet over Cable Devices and other Facilities)

What we are left with is a company feeling confident enough in its actions to spread “fear and loathing” into anyone questioning it motives or agenda. A rule of thumb for all Internet providers wishing to expand or to dominate market forces should be; do our actions foster fair competition or hinder competitive forces? No company is going to embrace competition if left to its own devices. My point is that as companies become very large their influence becomes a market liability in itself. Being competitively fair is a simple rule and one which evidently needs to be re-enforced.

Source: Broadband Convergent (http://s.tt/1cmVk)