

The FCC's negotiated fast-lane proposal for edge providers fails to promote the ideals of an Open Internet, and threatens the vibrancy and competitiveness enjoyed under the previous non-discriminatory regulatory scheme.

It discourages broadband infrastructure investment. Content delivery service providers will have reduced incentives to invest in bandwidth and infrastructure, since end users will not benefit unless costly fast-lane agreements are entered into with their respective edge providers. Similarly, edge providers, who are no longer bound to deliver all content indiscriminately, are paradoxically disincentivized from infrastructure investment because the slower their base network operates, the more valuable peering agreements become to bandwidth-intensive services.

It discourages innovation and competition. Establishing fast-lanes allows edge providers to enforce vertical tying and preferential treatment for competing services, instead of direct and open competition. It also places edge providers in a gatekeeper role, placing costly barriers in front of new entrants, and eroding the level playing field that allows both large and small ISPs to disrupt and innovate on the internet.

It reduces customer choice and fails to meet existing consumer expectations regarding the nature of edge provider services. For high-bandwidth and latency-sensitive applications, preferential bandwidth treatment can lead to situations where, instead of choosing among competing services based upon competitive factors, consumers will be herded towards providers whose business model allows them to pay edge providers for sufficient access to end users. This practice is also contrary to consumer expectations, whose ability to vote with their dollars and virtual feet, fuels technological innovation through fierce competition.

In regulating the communications industries, the FCC is tasked by Congress to foster competition and diversity among vested stakeholders in the interest of the public good. Adopting policies that allow for preferential and discriminatory business practices among service providers is inimical to these founding principles, and should not be considered in future proposals of edge provider regulations.

Sincerely,

Leonard Park, Esq.