

T-Mobile (NYSE: TMUS) CEO John Legere's heart is in the right place, but his latest UnCarrier initiative could have deleterious effects on the consumers he loves.

Last week, Legere announced that T-Mobile (NYSE: TMUS) would not count data used by certain music-streaming apps toward subscribers' data caps. Included among the apps that are part of what T-Mobile is calling "Music Freedom" are Pandora (NYSE: P), iHeartRadio, Apple (NASDAQ: AAPL) iTunes Radio, Rhapsody, Spotify, Slacker, and Milk Music. Not included, however, is my streaming service of choice, Google (NASDAQ: GOOG) (NASDAQ: GOOGL) Play Music All Access.

I'm not writing this to complain that All Access didn't make the launch. In fact, it looks like it's next in line to be added to the list of exempt apps.

I'm writing to point out a problem with allowing some data not to count against a cap, while other data -- even in the same category -- does.

Yeah, this is going to be about net neutrality

While the data blocks sent across T-Mobile's network are all treated equally, as far as consumer behavior goes, they are not. Streaming music can easily lead to going over one's data limit, resulting in T-Mobile throttling down a subscriber's connection speed. As a result, subscribers typically limit the amount of music and video they stream over the cellular network.

Music Freedom is designed so that consumers who want to stream music -- now a quintessential function of smartphones -- are free to do so. There's just one caveat: T-Mobile doesn't support every streaming service.

Although the company is working to support more apps, there's no guarantee that a smaller service will gain the same treatment. And therein lies the problem with Music Freedom.

Music Freedom indirectly hurts small start-up music-streaming services.

Think about it. If you can stream Pandora without counting against your data limit, why would you use another Internet radio service that will count against your data limit? Even if you like the other service more, you won't be using it once you're close to your cap.

This is about more than T-Mobile, though

At least T-Mobile isn't making Pandora and Apple pay for the privilege of preferred data.

Such is the case with AT&T (NYSE: T) and its Sponsored Data service. Sponsored Data allows companies to pay AT&T so that data from their apps don't count toward users' personal data caps.

Theoretically, this tilts the odds in favor of the big-pocketed businesses like Apple and Google that don't rely on their music-streaming services for much of their revenue. If Apple could tout that iTunes Radio doesn't count against data caps on AT&T, it should sell more iPhones and get a lot more iTunes Radio listeners because it's paying a tax its competitors can't afford.

A simple solution for T-Mobile

There are a couple solutions for T-Mobile, and neither is that complicated.

The first solution is to do away with data caps. T-Mobile's reason for throttling users is that it has too much congestion on the high-speed network to handle all of the data. Now that they're providing all of this music data for free, it seems the congestion issue is largely solved. If you get rid of the cap, the issue is solved.

The second is, admittedly, a half-measure. T-Mobile can let developers submit their music-streaming app for review, and grant them the same privileges as Pandora, Apple, and Spotify. This will at least even the playing field for all music services.

As it is, T-Mobile is asking for users to submit their favorite music-streaming service, which is not a fair method. Ultimately, it limits consumer options, and stifles innovation. By all means, Mr. Legere, set music free. Just set all of it free.