

Comcast Bogus Claims To Get Merger Approval

Federal Communications Commission Chairman Tom Wheeler has made it clear he thinks there isn't enough broadband competition in America, but Comcast is trying to convince the FCC that it faces enough competition right now. Already the largest pay-TV and broadband company in the US, Comcast is seeking permission to buy Time Warner Cable.

Comcast and Time Warner Cable don't compete for customers in any city or town, despite being the nation's two largest cable companies, which helps explain why US residents have so few viable options for cable and high-speed Internet service. But in response to merger-related questions from the FCC, a [Comcast filing](#) points to a broad range of competitors and says it's easy to switch to a different provider (though a [horde](#) of angry customers might disagree).

Comcast said it faces competition from municipal broadband networks, though the telecom industry has [pushed state governments](#) to pass laws that restrict municipal broadband growth. Wheeler has [said](#) he will try to preempt those state laws, saying they prevent competition. Comcast also described a competitive threat from phone companies, which are upgrading DSL to fiber and "appear well-positioned to offer highly competitive broadband speeds well into the future."

Additionally, "[c]able overbuilders, new entrants like Google fiber, municipal providers, fixed wireless providers, and satellite broadband providers also are competing vigorously," Comcast wrote. "And well-capitalized and aggressive nationwide mobile broadband providers now offer services that provide speeds comparable to many of the fixed broadband services that consumers purchase."

Comcast submitted the response to the FCC on September 11, but it wasn't made public immediately, apparently due to problems with the FCC's website.

Wheeler isn't likely to buy Comcast's arguments. In a [speech on September 4](#), he pointed out that three-quarters of the nation has at best

one choice of broadband providers offering at least 25Mbps. At 4Mbps and 10Mbps, most Americans have a choice of just two providers.

Wheeler said that cellular service is not yet “a full substitute for fixed broadband, especially given mobile pricing levels and limited data allowances.” Here, too, Comcast wants the FCC to believe otherwise.

“For many consumers, wireless is a viable substitute for fixed broadband,” Comcast wrote. “This provides consumers with another option to switch away from Comcast or simply use *less* Comcast broadband service (which could mean downgrading to lower speeds or foregoing upgrades), if they are unhappy.”

Comcast commissioned a survey that found, “59 percent of cable broadband consumers use wireless or mobile broadband either as frequently as or more frequently than they use cable broadband service for low-bandwidth activities, and 41 percent use wireless or mobile broadband either as frequently as or more frequently than they use cable broadband for high-bandwidth activities.”

What the survey seems to show is that cable customers use wireless as a complementary service rather than as a replacement for their home Internet connection. Wheeler argued that only fiber provides a real competitive threat to cable.

Don't like cable? Just switch (if you can)

Wheeler’s speech criticized broadband companies for making it difficult to switch providers by imposing early termination fees and equipment rental fees. Comcast is **notorious** for turning customer cancellation calls into protracted battles, but Comcast told the FCC that nothing could be simpler than switching providers.

Broadband consumers frequently switch ISPs. [The Comcast-commissioned survey] found that consumers switch broadband providers frequently. One-third of survey respondents switched providers in at least the past two years, and nearly half (49 percent) switched providers within the past four years,” Comcast wrote.

Because it’s so easy to switch providers, Comcast said it has no reason to harm online video competitors.

“Like other ISPs, Comcast has significant disincentives to harm edge providers for many reasons, foremost among them that blocking or degrading access to streaming video, applications, or other online content likely would cause significant numbers of customers to switch providers and thus compromise Comcast’s broadband business,” Comcast wrote. Comcast was **caught** interfering with BitTorrent traffic in 2007. More recently, Netflix performance on Comcast was **poor for months**, with the two companies blaming each other for the slowdown. Eventually, Netflix paid Comcast for a direct connection to its network, and the companies **added enough capacity** to improve performance.

Comcast admits: It's tough to compete against incumbents

Comcast’s filing confirms one point critics of broadband competition have made: Internet service providers **rarely invade each other’s territory** because of the high cost of building a network.

The FCC asked Comcast about the “minimum viable scale necessary” to enter its territory. Comcast said it would “take a number of years” for a new Internet service provider to break even because of the high initial costs and challenges in signing up subscribers.

New providers have to obtain regulatory approval to use public rights-of-way, buy Internet backbone services to connect subscribers to the Internet, and wire up homes, Comcast noted.

Comcast *didn’t* mention that new providers can also expect to face opposition from incumbents. Small TV and Internet providers **say they have faced frivolous lawsuits** from incumbents designed to put them out of business. CenturyLink **accused Comcast** of trying to stifle competition by prolonging the regulatory approval process in cities and towns where competitors want to build. CenturyLink and a **group of small cable companies** have asked the FCC to protect the rights of overbuilders that try to compete against Comcast.