

FCC Ruling Could Permit ‘Fast Lane’ of Internet Traffic

May 2014 FCC Proposal

- Permits broadband providers to manage traffic on their networks in a “commercially reasonable” way
- Prohibits internet traffic providers from blocking traffic to sites or intentionally degrading internet speed

Proposal Implications

Seems to permit broadband providers to create a “fast lane” for internet traffic and charge companies for access

Possible Effects



More Internet Infrastructure

Proponents of the proposal assert that allowing “fast lanes” will help pay for the costs of providing high-speed internet to American consumers



More Variable Speeds

Opponents of the proposal claim that, although the proposal prohibits slowing internet speed, it will over time lead to speed-based internet tiers



Fewer Internet Startups

Opponents of the proposal see it as posing a new expense for startups, but proponents claim that large companies already pay for better service



More Litigation

Whatever rule the FCC promulgates is almost certain to be challenged in the D.C. Circuit, a court historically skeptical of FCC jurisdiction over broadband

Analysis

- The May 2014 Federal Communications Commission (FCC) proposal allows physical (but not mobile) broadband providers to manage traffic on their networks
- However, the proposal invites public comment on reclassifying broadband providers as “common carriers,” which would increase the FCC’s regulatory powers over broadband providers
- Although opponents of the proposal claim that allowing broadband providers to manage traffic will lead to the creation of speed-based internet tiers, it is unclear what “commercially reasonable” management means in practice