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The Federal Communications Commission is about to fundamentally change the way it oversees high-speed Internet service, proposing to regulate it as a public utility. Chairman Tom Wheeler is reaching for a significant expansion of the agency's authority to regulate broadband providers, according to multiple people familiar with the matter.



The move would fully embrace the principle known as net neutrality, and if enacted, would bring a new definition to the economics of the Internet industry: Rather than regulating broadband firms lightly, as has been its practice so far, the FCC would treat them like telecommunications companies and subject them to more intrusive regulation, especially in areas relating to how they manage traffic on their networks. A central element would be a ban on broadband providers blocking, slowing down or speeding up specific websites in exchange for payment, these people say. Supporters of the FCC's position say allowing some

websites to pay for faster access to consumers would put startups and smaller companies at a disadvantage.

The proposal, expected to be unveiled by the FCC on Thursday, is a victory for a host of Silicon Valley firms and liberal activists who have championed it. Many of these companies lobbied the White House seeking such an outcome, and were rewarded in November when President Barack Obama announced his support for "the strongest possible" rules for net neutrality, the principle that all Internet traffic should be treated equally.

Mr. Obama's statement came after a widespread backlash against a proposal from Mr. Wheeler over the summer, and following numerous meetings with startups, investors and activists. By October, the White House was convinced that regulating providers as utilities was the only way to ensure net neutrality, while Mr. Wheeler pushed an alternative "hybrid" approach that net neutrality supporters criticized as overly complex. The president's statement effectively forced Mr. Wheeler to follow his preferred approach, or risk being labeled the former cable and wireless lobbyist who sold out the Internet.

The president called for Mr. Wheeler to regulate broadband providers like telecommunications companies under Title II of the Communications Act, the portion that governs common carriers, like the old landline phone system. Mr. Wheeler's original plan had avoided such a move, but he gradually moved closer to the approach over the past year, after both the White House's intervention and opposition to his initial concept.

The proposal would also give the FCC the authority to regulate deals on the back-end portion of the Internet, where broadband providers such as Comcast Corp. and Verizon Communications Inc. pick up traffic from big content companies such as Netflix Inc. and network middlemen like Level 3 Communications Inc. Deals between companies like Netflix and Internet providers aim to ensure connections are maintained without any disruption, and are designed to prevent any one firm from swamping the network with traffic.

The FCC's expected plan wouldn't ban these so-called paid-peering deals, but would give the agency the ability to police them based on whether it finds them just and reasonable, the standard under Title II. Netflix CEO Reed Hastings told Mr. Wheeler during a phone call Friday that his company would accept the FCC looking at such deals on a case-by-case basis, rather than banning them outright, according to an FCC filing. A Netflix spokesman said had such rules been in place last year, the company would have filed a complaint against broadband providers "thwarting our service." Verizon and Comcast declined to comment.

A federal court struck down the FCC's most recent set of net neutrality rules in January 2014, sending the issue back to the agency for the third time. Wireless and broadband industry officials have indicated in public comments that they plan to sue again if the FCC moves ahead with a telecommunications-style regulation. They contend such a move would saddle firms with outdated regulations and depress investment in upgrading networks.

Meredith Attwell Baker, CEO of CTIA—The Wireless Association, the Washington lobby for the wireless industry, said, "We have significant reservations with any approach that applies intrusive public utility regulation on mobile broadband for the first time, which is why Congress's consideration of net neutrality legislation is the best path forward to provide certainty to all stakeholders." The broadband industry's lobbying group, National Cable and Telecommunications Association, declined to comment.

Supporters of net neutrality have long argued that the Title II route is the only way for the rules to stand up in court. "This straightforward protection of two-way communications is central to real net neutrality and critical to the future of the Internet," said Craig Aaron, CEO of Free Press, a lobbying group that opposes media consolidation. It remains unclear how the proposed rules will treat other practices, such as mobile plans that let users access only a small number of apps without hurting their monthly data allowance.

The FCC is also expected to exempt broadband providers from the bulk of Title II regulations, in areas including what they charge their customers, through a process known as forbearance. It is unclear exactly which rules would be set aside. Mr. Wheeler is expected to circulate his proposal on Thursday, with a vote scheduled for the FCC's Feb. 26 open meeting. A majority of the FCC's five commissioners must approve the rules for them to take effect.

The rules shouldn't change how most consumers experience the Internet in the short-term, as they would largely codify what has been voluntary practice for the broadband industry. Down the road, however, they could make it easier for companies to offer bandwidth-hungry services such as online video-streaming without having to first seek approval or enter into business arrangements with the broadband providers.

Changing the broadband industry's regulatory status could also have ramifications beyond the immediate question of how to enforce net neutrality. While Mr. Obama and others have said they don't want the FCC setting prices for broadband providers, a future FCC

may decide differently. Reclassifying broadband as a telecommunications service may also amplify calls for the government to subsidize the deployment and adoption of broadband networks in underserved areas. “[T]he vague standards of Title II themselves breed investment-chilling uncertainty over the scope of future regulation, particularly given the inevitable propensity for regulatory creep,” Verizon said in a January FCC filing. – **Wall Street Journal**; also see **New York Times**

Tom Wheeler, chairman of the Federal Communications Commission, will propose an order to pre-empt state laws that limit the build-out of municipal broadband Internet services, senior F.C.C. officials said on Monday.

The proposal focuses on laws in two states, North Carolina and Tennessee, but it would create a policy framework for other states. About 21 states, by the F.C.C.’s count, have laws that restrict the activities of community broadband services. The initiative by Mr. Wheeler, if endorsed by the full commission, would be the first time the F.C.C. has tried to override such state laws. Mr. Wheeler is expected to circulate his plan to the other commissioners on Thursday, and the full commission is scheduled to vote on Feb. 26.

His community broadband proposal is separate from the larger Internet policy issue Mr. Wheeler is to address this week — rules to ensure an open Internet, or net neutrality. In that proposal, Mr. Wheeler is expected to propose regulating Internet service as a public utility, but without getting involved in pricing and other corporate decisions. Mr. Wheeler’s community broadband proposal is in step with the recent recommendations of the White House, as his net neutrality plan is likely to be.

The chairman’s plan to invalidate the two state laws comes in response to petitions from two municipal Internet service providers: the Electric Power Board in Chattanooga, Tenn., and Greenlight, a community-owned broadband service in Wilson, N.C. In both cases, state laws prohibit the community Internet services from expanding into neighboring areas and counties. Their broadband services, they say, are far faster than those offered by nearby private-sector Internet service providers.

Proponents of the state laws, which are typically supported by cable television and telecommunications companies, say the municipal Internet service providers often enjoy tax and low-cost financing advantages not available to private companies. They also say states have the legal right to regulate local markets as they see fit.

The senior F.C.C. officials counter that the state laws deter broadband investment and competition, undermining consumer welfare. The municipal Internet providers, the F.C.C. officials said, are not competing unfairly but investing for the public good, providing high-speed service where the private sector does not.

Overriding the restrictive state laws, they added, conforms to the F.C.C.’s legal mandate to “remove barriers to infrastructure investment” and to “promote competition in telecommunications markets.” If approved by the full commission, the F.C.C. order to invalidate the two state laws would almost certainly be challenged in court. – **New York Times**



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