Paid Prioritization: The Antithesis of Openness on the Internet

Paid prioritization is a financial arrangement in which a content owner pays a broadband provider to "cut to the front of the line" at congested nodes, or where a broadband provider engages in "vertical prioritization" by favoring its own content. To fully understand paid-prioritization, we must first understand a basic engineering reality:

- **By Definition, Prioritizing One Bit Slows Down All Other Bits:** Unlike paid prioritization in other markets such as physical parcel delivery, the routing of IP data is a zero-sum game. If a router speeds up one set of bits, by definition, all other bits are slowed down. Prioritization only has meaning during times when a network is experiencing congestion; otherwise the bits are routed in a first-in-first-out manner.

This engineering reality leads to basic economic realities that indicate broadband providers will use the practice of paid-prioritization to favor their own content and that of a few select partners:

- **Broadband Providers Will Only Be Able to Form a Small Number of Paid-Priority Relationships:** Because of the negative impact on non-paid priority content, consumers will be less willing to pay for broadband service if too much content, goes into a slow lane, and the broadband provider's revenue gains from prioritization might not be enough to offset the losses stemming from user defection and devaluation. Also, the value of the prioritization to a third-party is directly proportional to how much faster their content loads in comparison to non-prioritized content; but the more priority relationships there are, the less this difference in load time. These factors create the reality that broadband providers will only be able to prioritize a small amount of content, whether its their own or others.
- **The Revenue Potential from Third-Party Prioritization Is Low:** Unless network owners are blocking certain web traffic outright, it isn't clear at all that content providers would be willing to pay for this form of accelerated delivery, when services like local caching (CDNs) are sufficient to deliver low-cost, quality streaming video. This means even if the FCC retains the authority to impose a basic restriction on the blocking of websites, broadband companies will still have a strong financial incentive to push that restriction to its limit.

These economic bounds indicate just exactly what is motivating broadband providers to so fiercely oppose restrictions on paid prioritization, and indicates an anti-competitive future if the Commission endorses or allows the practice:

- **Broadband Providers Will Use Vertical Prioritization to Preserve Legacy Voice, SMS and Video Revenues:** Because network operators are bound by the laws of physics and by supply and demand, they will not be able to generate substantial new revenue streams from paid-prioritization over the public Internet. But they will be able to use discriminatory prioritization to favor their own vertical content. The motivation for their opposition to nondiscrimination is not just the desire to earn new revenues, but to protect legacy voice, SMS and video revenues from the forces of competition enabled by the open Internet.
- **Broadband Providers Will Form a Few Limited and Exclusive Third-Party Priority Relationships to Avoid Competition:** Broadband Providers could form some exclusive third-party priority relationships, but not just for the revenues they will generate. Such deals could serve as a method of superficial product differentiation. For instance, maybe Google would work fastest on Verizon connections while AT&T strikes a deal with Bing. History has shown that such business strategies are often anti-consumer and anti-competitive, as they enable companies like AT&T and Verizon to avoid meaningful competition on their core access services.
- **Rules that Permit Paid Prioritization Will Harm Network Investment:** The benefits of prioritization to those paying for the preferential treatment are only realized during times of congestion. This creates perverse investment incentives because broadband providers will, in turn, benefit from congestion in the network. Paid-prioritization -- be it vertical or third party -- will deter investment by broadband providers that can benefit from this artificial scarcity.
- **Rules that Permit Paid Prioritization Will Harm Edge Investment:** The performance differential from paid- or vertical-prioritization would effectively subdivide the market for online applications and services. Apps and services offered without priority may not function well enough to serve as substitutes for many would-be users. This will crush edge investment and jeopardize the entire U.S. innovation economy.

The basic principle of open, nondiscriminatory interconnection is the DNA of two-way communications networks. Nondiscriminatory interconnection is why the Internet looks nothing like cable television, and is why the Internet has grown into an infrastructure that facilitates the truest expression of the free-market. This principle lies at the heart of the Communications Act because Congress rightly recognized that open, nondiscriminatory interconnection is a requirement for a successful communications infrastructure policy. Network Neutrality embodies this basic principle. Ultimately, the Commission has the responsibility to ensure that broadband providers in the access market cannot use their market power in network ownership to distort the adjacent market for Internet content. This is the successful legacy of the *Computer Inquiries* that the Commission must uphold, even as it moves beyond these rules.

Paid prioritization is the antithesis to openness, and any regulatory framework that does not presume such arrangements are harmful to consumers and competition is not real Net Neutrality -- it's a watered-down version trying to pass itself off as protections that will actually preserve the open Internet.