

## Cable and telcos side with Comcast in FCC BitTorrent dispute

By [Matthew Lasar](#) | Published: February 19, 2008 - 04:57AM CT

The race is on to get the last word in on the Comcast/BitTorrent controversy. With ten days left to file, telcos, trade, and advocacy groups are sending the Federal Communications Commission their statements on whether Comcast and other ISPs purposefully degrade peer to peer traffic, and if so, what to do about it. Not surprisingly, the debate pits broadband content providers and advocacy groups against the big telcos, cable companies, and their trade association backers.

Free Press and other net neutrality advocates asked for an FCC proceeding after Associated Press completed an investigation last year [concluding](#) that, in some instances, Comcast "hindered file-sharing by subscribers who used BitTorrent," a popular P2P application. The comment cycle requests input on whether the practices with which Comcast and others have been accused trigger the FCC's authority to ensure that IP services operate in a "neutral manner." Also open for comment is video program provider Vuze's [request that the Commission](#) put "reasonable boundaries on the operators' 'gatekeeper' power over applications and content."

Comcast users [were the first to file](#) in this proceeding, which began on January 14. Many complained of slowdowns and cutoffs when they access BitTorrent. Now trade associations and big companies are submitting longer comments, some calling for a hands off policy, others asking the FCC to take action on the matter.

### Telcos line up with Comcast against P2P

Just about every big phone company has filed a statement challenging the FCC's authority to deal with this problem. AT&T, Verizon, and Qwest all submitted lengthy remarks on February 13th, the last day for comments on the proceeding (parties can still reply to comments through the 28th).

"The Internet marketplace remains fundamentally healthy, and the purported 'cure' could only make it sick," AT&T's filing declared. "At best, the network-management restrictions proposed by Free Press and others would inflict wasteful costs on broadband providers in the form of expensive and needless capacity upgrades—costs that would ultimately be passed through to end users, raise broadband prices across the board, and force ordinary broadband consumers to subsidize the bandwidth-hogging activities of a few."

Time-Warner Cable's comment all but condemns P2P applications as "*designed* to consume all available bandwidth and, if left unchecked, will prevent consumers from continuing to access the wealth of content available over the Internet."

"In light of such threats, which capacity upgrades alone cannot combat, broadband providers must retain the flexibility to employ traffic management practices to protect their networks as well as their subscribers from degraded performance and increased costs," the filing concludes.

And NBC Universal's statement cites "two key facts" in its case against net neutrality-style regulation. First, an unfootnoted assertion that "at least 50% of broadband capacity is taken up by a small minority of users (about 5%) using peer-to-peer networks to traffic in pirated music, video and software." And second, that "other governments around the world... have recognized the massive scale of online copyright infringement (and the harm it causes to their economies), as well as the vital role that ISPs can play in helping to curb copyright abuse."

NBC's comment praises French president Nicolas Sarkozy's recent agreement with various ISPs, getting them to commit to disconnecting "persistent copyright infringers" from their networks. The filing concludes that "sensible network management practices" are needed so that ISPs can combat "the adverse effects of staggeringly high bandwidth consumption by P2P networks *and* to help reduce the vast amount of pirated content that flows through these networks."

More cautiously, the Recording Industry Association of America's filing asks the FCC not to "sweep so broadly as to protect the dissemination of illegal content" in any rulemaking on the Comcast question. The RIAA's focus, unsurprisingly, is on tools and methods to battle illicit file-sharing.

Ditto to all or most of this, say the big telco trade groups: the U.S. Telecom Association, the Telecommunications Industry Association, the U.S. Chamber of Commerce, CTIA - the Wireless Association, and the National Black Chamber of Commerce, whose comment suggests that "government should not take on the role of Chief Internet Engineer."

## Calls for help

But other parts of the private sector have sent the FCC urgent requests for protection from potentially unfair ISP behavior. Sony Electronics, which now offers a wide variety of legal content for its web-enabled TV sets, wrote to the Commission on February 13 asking for a clearer definition of "sensible" or "reasonable" management practices.

The latter term "could encompass anything from routine network maintenance to discontinuing access for certain subscribers under certain circumstances," Sony warns. "Is it, for example, reasonable network management for an Internet access provider to degrade Internet traffic generally for all users of a known bandwidth-intensive application, even if an individual end user of that application has placed no unusual burden on network resources?" The filing concurs with Vuze in asking the FCC to initiate a rulemaking that will define "reasonable network maintenance."

Similarly, the National Association of Realtors told the FCC that youtube.com, Wellcome Mat and zipvo.com have become indispensable for the remote display of real estate for potential buyers. "Uncertainty over network providers' authorization to degrade specific technologies of their choosing may chill innovation in video distribution technologies to the detriment of businesses and consumers alike," the NAR concluded, and asked the Commission to enforce ISP fairness on a "case by case" basis.

And the Vonage Holding Corp.'s statement declares itself "critically interested in ensuring that its competitors do not use 'reasonable network management' as a pretext to degrade the performance of Vonage's service," particularly the 911 and E911 components of its operation. Vonage asks the FCC to implement a "presumption that network management that results in the blocking or material degradation of interconnected VoIP service (or any other Internet service subject to 911 and E911 obligations under the Commission's rules) is not reasonable."

In the same vein, the National Public Safety Telecommunications Council's statement warns that the "efforts of broadband network providers to manage or regulate the transmission of data over their networks could have unforeseen impact on public safety's primary mission of protecting and serving our nation's citizens. Delaying or denying the transmission of mission critical information that may be carried over commercial broadband networks will hinder emergency response," the group concludes.

As for warnings of P2P pirated content, the American Library Association's (ALA) filing advises the FCC that libraries now provide an enormous stream of legal digital material to millions of patrons, including huge collections of pictures and music. Libraries "need to be assured that they will be able to access legitimate Internet content or use Internet services or applications without fear or concerns that such access or use will be blocked or degraded by any entity with the means and control to do so," the ALA's statement concludes.

Also asking for more FCC oversight: the Open Internet Coalition, the National Association of Telecommunications Officers and Advisors (which helps cities manage their networks), plus additional statements from Free Press and Vuze.

Filed under: [Comcast](#), [P2P](#), [net neutrality](#), [Vonage](#), [more...](#)

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