Questions Raised Over Broadband Plan

By THE ASSOCIATED PRESS
Published: July 12, 2007

Filed at 8:47 p.m. ET

WASHINGTON (AP) -- If they're lucky, Americans have two choices for getting high-speed Internet access: the local cable company or the local telephone company.

Hoping to increase competition, regulators have promised that a third choice will become available when TV broadcasters abandon part of the airwaves as part of the digital revolution.

But a proposal previewed this week by the chairman of the Federal Communications Commission suggests that dreams of a "third pipe" for broadband is really a pipe dream.

A critical provision that some say is needed to attract a new broadband competitor did not make it into the draft.

Some technology companies like Google, as well as a number of public interest groups, want the FCC to require licensees in at least one swath of the 700 MHz spectrum being auctioned to offer wireless services on a "wholesale basis."

A wholesaler could build a new network and lease it to other providers who might offer a wireless broadband service.

Another "open access" provision -- a rule that would allow consumers to buy the wireless device and software of their choice and use it on a new network -- did make it into the draft rules.

That is not enough, according to Michael Copps, a Democratic commissioner, who signaled Thursday that he may not support FCC Chairman Kevin Martin's draft proposal.

"I'm a big believer in open access," he told The Associated Press in a brief e-mailed statement. "And to me that means wholesale as well as device and application freedom."

Last April, in a preliminary order regarding the auction rules, Martin noted the cable/telephone company stranglehold on the broadband market, saying the auction was the "single most important opportunity" to achieve the goal of creating a "third pipe."

"Depending on how we structure the upcoming auction," he wrote, "we will either enable the emergence of a third broadband pipe -- one that would be available to rural as well as urban Americans -- or we will miss our biggest opportunity."
The FCC chairman confirmed to the AP on Thursday that there is no provision requiring wholesale access in the draft rules, but he said that they don't prevent it from happening, either.

"Our rules allow the winning bidder to utilize a wholesale model if they would like to," he said.

Martin said several provisions that third-pipe advocates pushed for are in the draft rules, including the licenses that cover large geographic areas and large blocks of bandwidth. Such provisions would make it easier for a bidder to build a true national broadband network.

The rules include strict buildout requirements. A winning bidder would not be able to simply warehouse the spectrum, as some large wireless providers have been accused of doing. The spectrum must be used.

The final version of the rules will require approval of the full commission. A vote could occur as soon as July 31.

The spectrum for auction is considered especially valuable. Signals that utilize it are able to travel long distances and easily penetrate walls. The auction, which must take place prior to Jan. 28, 2008, could raise as much as $20 billion for the U.S. Treasury.

The amount of usable spectrum for wireless services, especially wireless broadband, is limited.

The auction is a historic opportunity, according to Gene Kimmelman, vice president of federal and international affairs for Consumers Union, the nonprofit publisher of Consumer Reports magazine. And under the draft rules, the "big will get bigger," he predicted.

While pleased with the move to free devices from carrier control, he said the agency was in danger of wasting the "best opportunity in modern history to jump-start Internet competition and bring new players to challenge the dominant telephone and cable companies."

Martin began circulating a draft of the rules among the four other commissioners on Tuesday, according to sources who have seen the document. The draft is secret. In fact, the public won't know what the rules say until after the commission votes on them.

The rules have been the subject of intense lobbying for months. The draft is likely to go through a number of revisions before it comes to a vote.