A Call To Let Your Phone Loose

Telecom's New Battleground: Carriers' Proprietary Controls

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Until federal regulators issued a landmark ruling in 1968, Americans could not own the telephones in their homes, nor attach answering machines or other devices to them. Now, a growing number of academics and consumer activists say it's time to deliver a similar groundbreaking jolt to the cellphone industry, possibly triggering a new round of customer options and technical innovations to rival the one that produced faxes, modems and the Internet.

Wireless carriers, which limit what customers may do with their phones, say the move is unnecessary and potentially harmful. But in articles, blogs and speeches, a number of researchers are asking why the companies are allowed to force consumers to buy new handsets when they change carriers, pay a specified carrier to transfer photos from a camera phone, or download ring tones or music from one provider only.

"At some point, I think Americans are going to put their foot down and say, 'We won't tolerate this anymore,'" said Dave Passmore, who has written extensively on the issue as an analyst for the Burton Group, a research firm.

Activists who share his view are seizing on an article circulated by Columbia University law professor Tim Wu, an authority on telecommunications issues. Wu, who plans to present the paper Wednesday at a Federal Trade Commission hearing on Internet access, writes that wireless carriers are "aggressively controlling product design and innovation in the equipment and application markets, to the detriment of consumers. Their...

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Detriment of consumers. Their policies, in the wired world, would be considered outrageous [and] in some cases illegal."

The wireless carriers, however, say that forcing them to open their networks to unfettered use is not needed, because consumers have several options for carriers.

"Wireless is a competitive industry, and consumers enjoy the greatest number of choices among services, devices, calling plans and coverage areas in the entire telecom industry," the main trade group, CTIA -- The Wireless Association, says in a policy statement. "CTIA opposes the recent attempts to supplant competition and market discipline with heavy-handed, anti-consumer regulation."

Verizon Wireless spokesman Jeffrey Nelson also called the industry highly competitive, noting that consumers can choose among numerous handset models and four major providers of cellular service: Verizon, AT&T, Sprint Nextel and T-Mobile. "If you don't like what one company enables," he said, "find somebody else. . . . To suggest it's a locked-down industry is crazy."

Moreover, eliminating controls on the wireless network could undermine its security, said another Verizon Wireless spokesman, John Johnson. His company limits Bluetooth applications in part to prevent illegal access to users' personal information, he said, a problem in some European markets.

It was the Federal Communications Commission that issued the far-reaching 1968 ruling, and some analysts think the current five-member commission is at least willing to listen to Wu, Passmore and others. But in an interview yesterday, FCC Chairman Kevin J. Martin made no commitments.

In general, he said, robust competition and choice spur innovation and lower prices for consumers. For now, at least, Martin said, the major wireless carriers are competing vigorously against each other, and he said would not favor FCC intervention unless there was evidence that innovation was beginning to suffer and prices were becoming unreasonable. "The jury is still out," said Martin, a Republican appointee. "It's something we're watching."

Some predict the debate will spread quickly beyond academic and political circles. "This paper has the potential to become a huge telecommunications issue," said Art Brodsky, who tracks the communications industry for the advocacy group Public Knowledge. "People now don't understand how limited they are in what they can do with their cellphones. This is a totally ripe issue."

Some of Wu's allies say they may use his research to petition the FCC to force wireless providers to loosen their restrictions on phones.

Wu, Passmore and others cite restrictions involving applications like Bluetooth, which facilitates communications among such devices as printers, personal computers and wireless headsets. In an article last year for Business Communications Review,
Passmore wrote that Verizon disables "all Bluetooth profiles except wireless headsets and dial-up networking. You can forget about using Bluetooth for synchronizing your phone's calendar or address-phone book-contact information with your PC's. Nor can you move any music or other files between your phone and PC, or move photos off of your phone (unless you're willing to pay Verizon 25 cents apiece for the privilege of using their network for photo transfers)."

Wu, in his 40-page article "Wireless Net Neutrality," notes that AT&T and T-Mobile "lock" their cellphones so users cannot continue using them if they switch carriers. The companies allow customers, upon request, to unlock the phones after a certain time. But Wu says "most consumers have no idea what a phone lock is" in the first place, and therefore don't know that they can reuse their phones.

Some hold up Apple's iPhone as another example of the industry's restrictive practices, because it will operate only on AT&T's mobile service when it goes on sale this summer.

Critics of such restrictions say the FCC should consider applying the so-called "Carterphone" rules to the wireless industry. The 1968 ruling allowed inventor Thomas Carter to attach a device to AT&T phones that would convert two-way radio signals from offshore oil rigs to phone calls. AT&T, then the all-powerful Ma Bell, strenuously objected, saying any non-AT&T device could seriously damage the entire network.

The FCC disagreed, and the Carterphone decision became "a kind of Bill of Rights or Magna Carta for telecom users," Passmore recently wrote.

Wireless carriers, however, say today's competitive environment does not resemble Ma Bell's monopolistic power in the 1950s and '60s, and no new Magna Carta is needed.

"This whole issue is a giant red herring," said AT&T spokesman Mark Siegel. "This is a fiercely competitive industry," which has grown "almost entirely through the force of competition in the marketplace, more innovative devices and services, and continually lower prices."
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