

# Government should avoid Internet regulation, FCC member says

*Competition in the broadband market ensures consumers' rights, McDowell says.*

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A Federal Communications Commission member told an Austin crowd Wednesday that government regulators should stay away from the Internet and that any new rules would inject uncertainty into the marketplace.

Commissioner Robert McDowell's remarks to the Texas Public Policy Foundation come on the heels of a federal court ruling that threw the future of Internet regulations into doubt.

Last week, the U.S. Court of Appeals for the District of Columbia ruled that the FCC doesn't have authority to require broadband providers to give equal treatment to all Internet traffic on their networks. That was a victory for Comcast Corp., the nation's largest cable company, which had challenged the FCC's authority to impose such "network neutrality" obligations on broadband providers.

Supporters of network neutrality, including FCC Chairman Julius Genachowski, have said the policy is necessary to prevent broadband providers from favoring or discriminating against certain Web sites and online services.

But broadband providers say that after spending billions of dollars on their networks, they should be able to sell premium services and manage their systems to prevent some applications from hogging capacity.

McDowell said there's no need for FCC regulation because competition in the broadband market is robust and government agencies haven't found any concentration or abuse of that market power.

"In other words, there's nothing for the government to fix," said McDowell, who was appointed to the FCC by former President George W. Bush, then reappointed last year by President Barack Obama. "And it's an important question to ask: What exactly is broken about the Internet that the government is trying to fix?"

But Susan Crawford, a law professor at the University of Michigan, said that a majority of Americans have — at most — two choices of broadband providers and many don't even have one. It's also not clear that competition has produced the speeds and affordability that Americans need for such a "basic communications network," she said.

"And the ability of our communications regulator to talk about high-speed Internet access doesn't depend on the presence or absence of market power," said Crawford, who served last year as Obama's special assistant for science, technology and innovation policy. "We take it as a social good for everyone to have Internet access and for it to be affordable."

McDowell said the government's hands-off policy toward the Internet has resulted in increasing numbers of Americans with access to broadband. Nearly two-thirds have such access today, he said.

Plus, the federal government could pay a price if it steps into the world of Internet regulation, he said.

"Societies that regulate the Internet more tend to be less free. Societies that regulate it less tend to be more free," he said. "So do we lose the moral high ground internationally, when we cross that line and say, 'It's OK now for governments to intervene in this space?'"

Crawford said the idea of the country's communications regulator "not having the authority to talk about the basic communications network that all Americans use is unthinkable."

The reason to have the conversation about net neutrality, she said, is to ensure there is a level playing field for all American business.

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