



Written by [Steven J. DuBord](#) on August 31, 2009

## FCC to Investigate Wireless Industry

The Federal Communications Commission is launching an investigation of the nation's wireless industry to root out any anti-competitive practices and to decide what regulations should be imposed for the supposed benefit of consumers, *Wired* reported on August 27.

The inquiry was approved by all five of the FCC commissioners, three of whom are Republicans and two are Democrats. The Republicans warned against overregulation, while the Democrats claimed consumers need protection.



Commissioner Michael Copps, a Democrat, reminded the commission at the outset that the FCC's *raison d'être* is consumer protection, adding that "there should be no doubt that facilitating wireless innovation is crucial to the nation's well being."

Copps touted the Internet model, "where the freedom to choose devices and applications are good for consumers." This appears to signal his support for extending to wireless carriers the current rules on Internet service providers, such as the broadband freedom rule requiring ISPs to let consumers choose the computer and the web services they would like to use.

Commissioner Robert McDowell, a Republican re-appointee, argued that the wireless industry was "robustly competitive." McDowell pointed to the billions of dollars cellphone providers are investing to expand their networks as a sign that the status quo is working: "The phenomenal success of the wireless sector shows how well a light regulatory touch works." Meredith Baker, another Republican, declared that the FCC should "continue to refrain from unnecessary regulation."

The new head of the FCC, Julius Genachowski, a former classmate of President Obama from law school, simply noted that the mobile broadband access provided by the wireless industry will "play an essential role in supporting the long-term health of our economy."

There will be a 30-day deadline for consumers and interest groups to provide input. The FCC is under time pressure because they must complete a national broadband plan for Congress by mid-February next year.

The FCC's investigation was greeted with enthusiasm by Public Knowledge, a group seeking increased regulation of the dominant wireless service providers: AT&T, Sprint, T-Mobile, and Verizon. "The Commission took exactly the right path today when it voted to look at all aspects of competition in the wireless industry," said Gigi Sohn, president of Public Knowledge, in a press release. "For too long, the appearance of competition among a few carriers has masked underlying anti-competitive industry practices ranging from consumer contracts to roaming agreements."

Others disagreed, including the [Competitive Enterprise Institute](#), which bills itself as "a non-profit, non-partisan public interest group that studies the intersection of regulation, risk, and markets." CEI Information Policy Analyst Ryan Radia stated: "The wireless industry is the last place regulators should



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be looking for alleged anti-competitive behavior. The wireless market is intensely competitive, and consumers enjoy a dizzying array of competing mobile platforms and service arrangements. Consumers looking for a mobile handset can select from the open source HTC G1 to the walled-off iPhone, and everything in between. In addition, practically every big wireless provider offers both long-term and month-to-month service options. Where is the anti-competitive behavior?"

CEI's Vice President for Policy and Director of Technology Studies Wayne Crews noted that "genuine market-driven competition — not artificial, government-imposed 'openness' — is the best way to promote consumer choice." Radia pointed out: "It's especially strange that the FCC is fretting over the wireless industry when the Commission itself is to blame for limiting competition in wireless services. Why isn't the FCC investigating its own misguided allocation of America's airwaves, a huge portion of which remains subject to decades-old rules that protect vested interests at consumers' expense?"

Radia concluded, "If the FCC is truly interested in promoting wireless competition, it should simply expand the range of spectrum up for auction. If more frequencies were on the market, their prices would decline, and more firms could try their hand in the wireless business."



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