

Biden admin wants Europe to reject forced payments from Big Tech to ISPs

Getty Images | Alan Schein

reader comments

68 with

The Biden administration urged Europe to reject the telecom industry plan to make Big Tech companies pay for Internet service providers' network expansions and upgrades. In comments submitted to the European Commission last week, the US Commerce Department's National Telecommunications and Information Administration (NTIA) said that mandating payments from online platforms to ISPs would "distort competition" and undermine net neutrality.

"Mandating direct payments to telecom operators in the EU absent assurances on spending could reinforce the dominant market position of the largest operators," the US submission said. "It could give operators a new bottleneck over customers, raise costs for end users, and alter incentives for CAPs/LTGs [content and application providers and large traffic generators] to make efficient decisions regarding network investment and interconnection. It is difficult to understand how a system of mandatory payments imposed on only a subset of content providers could be enforced without undermining net neutrality."

European broadband providers said in their comments that they should be allowed to demand new fees from online companies

that account for over 5 percent of a telco's average peak traffic. Telco lobby groups claimed that Europe needs "a fair contribution based on a framework that allows balanced negotiations between telcos and large traffic generators who obtain the most benefit from telecom investment, while creating a high-cost burden with their traffic and exerting disproportionate power across markets."

European ISPs argued for direct payments from tech companies rather than having tech firms pay into a government-operated fund that would distribute money to ISPs. The payments from tech firms to ISPs "should be based on commercial negotiations enshrined in a framework that obliges the parties to negotiate," with the backstop of a neutral third party to resolve disputes, the telco lobby groups said.

The US government filing urges Europe "to promote affordable access to broadband, protect users' access to online content, and avoid discriminatory measures that distort competition," the NTIA said in a press release yesterday. Summarizing the comments, the NTIA said the proposal could "give telecom operators a new bottleneck that could be used to increase control over their customers; raise costs for consumers and small businesses; and create distortions in the Internet ecosystem."

US: Tech firms already invest a lot

The Biden administration pointed out that tech companies already invest a lot of money in networks:

Internet services depend on a diverse global infrastructure extending well beyond end-user access networks. CAPs/LTGs build and operate networks, including large international fiber and submarine cable systems, that deliver popular services and applications. They develop or acquire content, operate data centers, and incur other obligations that contribute to the ecosystem's total costs.

Advertisement

The US warned of “substantial risks in a mandatory mechanism of direct payments from CAPs/LTGs to telecom networks, especially absent mandatory, enforceable obligations on how such payments are spent. Enforcing mandatory payments on a subset of traffic generators could be discriminatory and degrade equal access to the Internet, thereby endangering the principle of Internet openness/net neutrality.”

The NTIA explained that the US approach to financing network construction “involves private investments, a national Universal Service Fund, and significant public funding made from general appropriations.” The US said these “publicly accountable funding mechanisms,” in contrast to mandated payments from one set of companies to another, are key for “avoiding discriminatory measures that distort competition.”

The US also warned that mandated payments would be “unsustainable” if more countries adopt them.

“We urge caution should the EU consider any new funding mechanisms that could disrupt the current Internet ecosystem, which has successfully adapted to evolving technological and market conditions over time,” the NTIA said. “Internet traffic is global, raising questions regarding one country’s ability to collect revenues from foreign content providers; if many countries take this path it would likely be unsustainable.”

EU group warns of price hikes, impact on small ISPs

In addition to criticism from Meta, Google, and Netflix, the fee proposal was criticized by the Body of European Regulators for Electronic Communications (BEREC). The group of regulators from European countries said it has found no evidence of “free-riding” by tech companies or evidence that ISPs’ costs aren’t fully covered.

“The introduction of a mandatory financial contribution from large CAPs to ISPs may distort competition between market actors,” the group said. “Smaller ISPs are likely to be at a competitive disadvantage compared to large ISPs, in particular because of their smaller number of end-users and their lower bargaining power. Large CAPs typically provide commercial content delivery networks (CDN) and cloud services. Thus, they could pass on higher costs to their customers. This would then not only affect for instance smaller CAPs, but also business users, in particular SMEs [small and medium-sized enterprises].”

BEREC also said there is a danger that content providers’ customers, including small and medium-sized businesses, will be “negatively affected when the higher costs are passed on through higher fees for content subscriptions or the quality of service is lowered.”

<https://arstechnica.com/?p=1942584>