



[FCC slaps Comcast for P2P blocking: no fine, full disclosure](#)

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The Federal Communications Commission has sanctioned Comcast for "secretly degrading peer-to-peer applications," as the agency put it today. The Commission has issued a decision arguing that its Internet Policy Statement gives it the power to regulate Internet network management, and that Comcast's management was unreasonable. The FCC's *Order* will require Comcast to "disclose the details of its discriminatory network management practices to the Commission," set up a compliance plan to fix the problem, and fully outline its new practices to the FCC and consumers by the end of this year.

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At today's Open Commission hearing, FCC Wireline Bureau chief Dana Schaffer announced the division's conclusions. Comcast network management practices "discriminate against network management protocols rather than treating them equally," Schaffer said. The company has deployed network management technology that "selectively terminates" P2P connections. Schaffer called Comcast's practices "invasive," charging that the firm essentially prioritizes digital mail, not based on the address on the envelope, "but on the type of letter."

"Will the Internet evolve out in the open?" asked FCC Commissioner Michael Copps. "Or will network operators bring it under their control for their own purposes?" A majority of three agency Commissioners voted today for an Order that they hope will preserve openness: Copps, his fellow Democrat Jonathan Adelstein, and, most significantly, FCC Chair Kevin Martin, who continued Schaffer's mail metaphor in his public comments.

"Would anyone here actually be OK if the Post Office was opening your mail and deciding that they didn't want to bother delivering it and hiding that fact by sending it back to you stamped 'address unknown, return to sender'?" Martin asked the audience. "Or would anyone here be OK if someone sent them a First Class letter, and the Post Office decided that they would open it, and

deciding that because the mail truck was full sometimes, they would make the determination that your letter could wait, and then they would hide that fact from you, the fact that they had read your letter and opened it, and that they decided to delay it?"

"Unfortunately, this was exactly the practice that Comcast was engaging in with their own subscribers' Internet traffic," Martin declared.



Two of the agency's five members dissented: Republicans Robert M. McDowell and Deborah Taylor Tate. Tate argued that the matter would be better resolved via private negotiations. McDowell contended that the FCC lacks the authority to enforce the issue, and that "the truth is that the FCC does not know what Comcast did or did not do."

The agency responded to complaints filed last year from Free Press, Public Knowledge, and a petition from the [Vuze Corporation](#), charging that Comcast has chronically interfered with P2P traffic. Through 2008 the Commission received well over 30,000 statements, comments, and studies on the matter. It also held two full hearings at [Harvard Law School](#) and [Stanford University](#).

Comcast sent Ars a response to Martin's comments even before he finished making his public statement at today's hearing. The cable giant said it was grateful that the agency's decision did not include a fine. "On the other hand, we are disappointed in the Commission's divided conclusion because we believe that our network management choices were reasonable, wholly consistent with the industry practices and that we did not block access to Web sites or online applications, including peer-to-peer applications," declared Comcast Senior Director Sena Fitzmaurice.

Comcast also warned that it is pondering its legal options. Many observers expect the ISP provider to take this ruling to court.