

Antitrust can fill in for net neutrality, Lipsky says

Nihal Krishan 01 June 2017

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The acting director of the Federal Trade Commission's bureau of competition yesterday said the general public doesn't need to fear anticompetitive practices in the internet services market, as the antitrust agencies and plaintiffs' attorneys will pursue any issues.

Abbott "Tad" Lipsky yesterday said the FTC will continue to be vigilant in enforcing the antitrust laws against telecommunications and internet providers.

"There are little or no areas where explicit antitrust immunity exists under the Federal Communications Act," he said.

Lipsky said antitrust litigation can lead to companies engaging in anticompetitive conduct, including in the internet sector, being hit by severe remedies.

"To the extent this debate about how to treat the net to make it neutral or whatever are based on the idea that a lessening of the regulatory burden on the FCC [Federal Communications

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On the idea that a lessening of the regulatory burden on the FCC [Federal Communications Commission] side would lead to a situation in which anticompetitive conduct was free to occur without fear of further consequences, that is, I think demonstrably unrealistic," Lipsky said.

Lipsky acknowledged that the FTC has recently brought few cases under section 2 of the Sherman Act, but said the agency was waiting to see what future cases could arise. He cited the [McWane](#) as a recent FTC exclusionary conduct probe, and noted the Department of Justice's *Dentsply* case.

Lipsky emphasised the importance of plaintiffs within antitrust, and noted that the US antitrust litigation framework makes it "very easy" for injured parties to file lawsuits.

He said FTC enforcement is "what awaits those who would engage in any antitrust conduct as an ISP or a telecommunications carrier, out beyond whatever security is provided by a regulatory breakwater."

Lipsky also addressed concerns the public might have about the FTC currently only having two commissioners. He said this hasn't slowed the organisation down at all thus far, and that if anything it was faster and nimbler.

He said an even number of commissioners theoretically could be a concern for voting, but that there haven't been any major disagreements thus far.

Federal Communications Commission chairman Ajit Pai also spoke at the event, which was organised by the Free State Foundation thinktank.

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