

2012 AT&T/FACETIME ISSUE

I. The Issue

In June 2012, with mobile data demands continuing to surge well beyond industry expectations, Apple announced that its new FaceTime app would be preloaded on iPhones and available for use over cellular networks, subject to carrier restrictions. At the time, AT&T had tens of millions of iPhone customers (far more than any other carrier), and was legitimately concerned that heavy use of FaceTime—an unusually bandwidth-intensive application—could cause network congestion that impaired service quality on its network.

AT&T therefore announced that it would phase in availability of FaceTime over cellular while monitoring network effects. Specifically, AT&T announced that it would initially enable FaceTime over cellular for customers with certain Mobile Share plans—i.e., plans in which multiple devices share a data allotment—but not “unlimited” plans. During the phase in, AT&T monitored the network effects of the FaceTime app on its cellular network, and all customers continued to have unfettered use of FaceTime on WiFi. AT&T completed the phase in after only four months. After launching an investigation in response to complaints by net neutrality proponents, the FCC took no further action.

II. The Lessons

The speed at which this issue was successfully resolved has several lessons:

- ▶ **Transparency works.** In keeping with the transparency requirement adopted in the FCC’s 2010 Open Internet rules – a requirement that the FCC has reinforced in its new Internet Freedom Order, and which AT&T has long **supported** – the company was completely open with the public and its customers. The FCC rules required that AT&T disclose accurate information about its network management and performance—and AT&T did.
- ▶ **Wireless network management is crucial.** AT&T prudently phased in FaceTime use over its network. Between the iPhone’s introduction in 2007 and 2012, AT&T’s wireless data traffic **grew** 20,000%, and the company had a **significant penetration** of iPhones, significantly more than any other carrier. As an FCC report on this issue noted, “Rapid adoption of a new application might lead to large and unpredictable changes in the traffic load on a cellular data network. Carriers may want to start with a limited trial deployment of a new application to better understand its effects before wide-scale deployment.”¹

That is exactly what AT&T did. The company’s concern was strictly about the network impact of millions of iPhone users suddenly using a pre-loaded app that required 2–4 times more data on average than, say, a Skype call.²

- ▶ **Give customers options.** AT&T customers who initially could not access FaceTime on cellular could still use the app on AT&T’s 30,000+ Wi-Fi hotspots.³
- ▶ **Carriers use network management to benefit their customers.** Within four months, AT&T had enough information about the impact of FaceTime on its wireless network to complete the phase in of FaceTime across its subscriber base. The FaceTime example demonstrates that mobile providers have every incentive to ensure that their customers can use the applications of their choosing, consistent with reasonable network management practices.

Finally, this issue took place years before the FCC’s 2015 decision to apply Title II regulation adopted over 80 years ago for monopoly telephone networks to ISPs. Although the Wheeler FCC pointed to AT&T’s phase in of FaceTime to try to justify its Title II Order, in reality it is a paradigmatic example of “reasonable network management.”

¹ 1 FCC, “Open Internet Advisory Committee – 2013 Annual Report,” 20 August 2013. Pg. 41-42

² Ibid. Pg. 45

³ Ibid. Pg. 44