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Xohm Rollout Troubled by Comcast's Shadow






By Erika Morphy
E-Commerce Times
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WiMax has arrived with the debut of Sprint Nextel's Xohm service in Baltimore. However, the company is finding itself immediately thrust into the midst of the Net neutrality controversy due to language in its service agreement that leaves open the question of how it intends to regulate traffic

over the network.

[Sprint Nextel](#) (NYSE: S)  has successfully [rolled out](#) Xohm in Baltimore. The new 4G wireless WiMax network runs on 2.5 GHz and delivers downloads at 2 to 4 Mbps -- but it is clear the telecom service provider is still carefully negotiating the industry land mine that has become network management.

On the same day the company introduced its service, it was also confronted with pointed questions about how it will manage its network -- an industry-specific, arcane tech subject that was once of little concern to most consumers. That was before [Comcast's](#) (Nasdaq: CMCSK)  run-in with Internet consumer advocates and the [Federal Communications Commission](#)  earlier this year.

In its service agreement, Sprint Nextel includes boilerplate language reserving the right to "use various tools and techniques designed to limit the bandwidth available for certain bandwidth intensive applications or protocols, such as [file sharing](#)."

Sprint Nextel was a bit surprised to be hit with such questions on the same day that it rolled out its product, company spokesperson John Polivka told the E-Commerce Times. "We post our policies for customers to read and understand."

Sprint Nextel will not target any specific application or service in its [network management](#) activities -- even an application or service that may be in competition with something that Sprint Nextel offers, he said. "If it is on the Internet, it will be accessible by Xohm."

Furthermore, the company is offering one-day and one-month passes for users. Anyone who

finds the access provided unsatisfactory can cancel without penalty, he continued.

"We want our customers to have a great experience. To that end, we don't want any one user to disproportionately use the network," said Polivka -- but he declined to provide specifics about how Sprint Nextel would handle such a scenario, other than to say the company is not planning on setting bandwidth usage caps.

Post-Comcast World

Prior to the FCC's investigation of [Comcast](#), Sprint Nextel's assurances might well have been enough to assuage concerns of Net neutrality advocates. However, through its actions, Comcast unwittingly provided them with the perfect ammunition to argue for regulation of the Internet.

The FCC found, upon investigation of complaints from these groups, that Comcast had been engaging in management practices that were invasive and likely motivated by anticompetitive goals. The regulators also took the telco provider to task for being deceptive about its practices. Comcast has taken a dual-track in making its response: It is making its network management practices more transparent, but at the same time, it is [challenging the FCC's action](#) in court.

Much will depend on how the court ultimately rules. If it decides the agency doesn't have the authority to meddle in telco providers' network management operations, then it will be a game-changer for Net neutrality advocates.

Until then, however, service providers can expect to find their policies under a microscope -- as Sprint Nextel has.

"We are all looking at how service providers disclose network management practices," Jennifer Howard, spokesperson for [Free Press](#) told the E-Commerce Times. Free Press was one of the organizations to lodge the original complaints against Comcast. "The industry standard now is full disclosure of the product -- along with its limitations," she said.

Sprint Nextel "needs to give more disclosure about how Xohm will be limited and why those limitations are necessary," said Howard. "They are promising unfettered product, but in the terms of service agreement, it seems they are reserving the right to limit the product as they see fit."

Not a Policeman

At the very least, Sprint has absorbed the FCC's clear displeasure with providers that deceive their users, Jonathan L. Kramer, founding attorney of [Kramer Telecom Law Firm](#), told the E-Commerce Times.

True, the Sprint statement does not reveal much detail about how it will go about ensuring that one consumer does not use an inappropriate amount of bandwidth, he acknowledged. Still, it is not necessarily clear that that is what the FCC is looking for, as it has said it will evaluate such

complaints on a case-by-case basis.

Until the court rules on the FCC's power, service providers would be wise to -- at the very minimum -- tell customers there may be limits imposed on their use of the system, Kramer said. **ECT**

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