

Spend a little time with business owners when they come to Washington and you'll hear a common refrain: "Businesses need regulatory certainty." Companies like to know what the rules of conduct are going to be before they make already risky investments of capital to develop new products and services. If there is a chance that regulators will change the rules after the fact, companies and their investors will be skittish about sinking money into new projects.

It's a simple enough concept, but one that policymakers in DC forget more often than they remember. Just last week, Federal Communications Commission chairman [Julius Genachowski told a Silicon Valley crowd](#) that he was "concerned" about the potential for Internet bandwidth "caps" or tiers to "depress[] broadband usage." To casual observers, this may seem like a sensible remark - the FCC chairman ought to be concerned about people using less Internet after the Obama administration made a point to develop a lengthy National Broadband Plan to encourage *more* use - but the business community sees it differently.

You see, since 2010 the FCC has been telling businesses that variable pricing is a form of innovation in the broadband marketplace, with Genachowski stressing that "business model innovation is very important" and that there is more than one "permissible pricing model". In fact, in its [Open Internet ruling](#) the Commission made a point to say, "The framework we adopt today does not prevent broadband providers from asking subscribers who use the network less to pay less, and subscribers who use the network more to pay more." Genachowski reiterated his support for flexible pricing this summer in remarks at the annual Cable Show.

At the very least, Genachowski's remarks - if left unclarified - dash the regulatory certainty businesses have enjoyed on this question since 2010. At worst, they suggest that the chairman has had a change of heart and means to change a set of FCC rules so recently adopted that the ink with which they're printed is still drying. Absent any real harm to consumers or businesses, that would be an unprecedented reversal. ~