

Governing the Internet:
Net Neutrality

Collin Harness

The University of Texas at Arlington

Abstract

Net Neutrality is a principle that proposes Internet users should be allowed to access Internet content and applications without interference from their Internet Service Providers. The Internet was created to be an open forum to the public; it should therefore remain open to the public at a fair price. The FCC is currently trying to regulate Internet Service Providers, but is facing challenges from the U.S. Appeals Court and Congress. Currently, Democrats support Net Neutrality and Republicans oppose it.

Governing the Internet: Net Neutrality

What is Net Neutrality?

Network Neutrality, also known as, net neutrality is a principle which has many aspects and is being debated throughout the online community and in the political arena. The basic idea of net neutrality is: Internet users should be allowed to access Internet content or use any applications, without restrictions or limitations from their Internet Service Providers (ISP's) (Joch, Debating, p.1). Currently, the Internet is not regulated by the United States government or any corporation. Proponents of net neutrality are trying to stop broadband Internet Service Providers from denying online services or charging higher prices for more internet use (Hogendorn, 2007, p.60). Opponents of this principle believe that the laws or policies to maintain Net Neutrality are invasive and would hurt their business (Meinrath, 2008). With these different points of view, Net Neutrality, has come under fire and has been challenged through the United States court system. Finally, this issue is not only being challenged in the courtroom, but also is being debated in Congress with Republicans and Democrats having different points-of-view.

What are the issues?

The first issue that Net Neutrality addresses is Internet Service Providers have been trying to block services; such as, applications, which compete with their own personal services (Guo, Net Neutrality and Vertical Integration, p.244). The main Internet Service Providers in the United States includes AT&T, Verizon, and Comcast (Ericson, 2010). It would be financially beneficial to these companies if they could block services offered from websites like Google or Yahoo, in favor of their own web services (Sharp, 2009). If these ISP's were allowed to

Net Neutrality

discriminate the services or applications that flow over their networks this could hinder internet business development (Larson, 2011).

One example of an Internet Service Provider blocking content happened in 2009 when Clearwire Inc. blocked Vonage's Voice Over Internet Protocol service (Drake Law Review, 2010). Clearwire claimed the service was using too much bandwidth over their network (Drake Law, 2010). The Federal Communications Commission stepped in and ordered Clearwire to allow the service (Hogendorn, 2007, p.189). This example illustrates how Internet Service Providers could become gatekeepers of the content which travels over their networks (Pfister, 2007).

ISP's would argue that they have a right to manage the content which flows over their networks. Companies that provide the internet have invested millions of dollars in their physical networks. They have an obligation to their consumers to offer the most reliable network possible and this means regulating the amount of information sent over the networks (Livingston, 2010). It is also in the interest of these companies to maximize profits for their shareholders. They do this by leveraging their networks as a commodity. This leads to the second issue of the Net Neutrality principle, pricing.

The second issue deals with the pricing of the internet. Network Neutrality favors the idea that the price of Internet should be fair for everyone. Supporters believe that the internet was created as a first Amendment tool for everyone. No matter how much a person uses the Internet, it is only fair to the public if it is offered at the same price (Pil Choi, 2010). This is the idea, but this is not the reality. ISP's have created a tiered pricing system where people can pay more for more use of their network, in the form of faster surfing speeds and larger bandwidth consumption (Weisman, 2011). Net Neutrality argues that this system is unfair, because someone with less

Net Neutrality

economic means would have less access, or voice, on the Internet. This would also hinder the development of business on the internet, because cost of entry would become too high for new companies to enter the market (Pil Choi, 2010).

The companies that deliver the Internet networks set the prices for their consumers. Currently, they have created a system where you can pay more money for more access (Weisman, 2011). These companies argue that no government or organization should be allowed to tell them how to price their product, but the prices should instead be market driven (Larson, 2011). It is the position of many ISP's that if prices were to be regulated this would hurt the entire Internet Service industry through decreased future investment in broadband networks (Sharp, 2010).

Net Neutrality and the FCC

Network Neutrality became a national issue when the Federal Communications Commission issued a Policy Statement focusing on Broadband Internet access on August 5, 2005 (Broadband Policy Statement, FCC). The policy outline guidelines directed toward ISP's, aimed at preserving the openness of the internet. After reviewing the policy, in February 2008 the FCC adopted the principles of the broadband policy (HR5353, FCC). Shortly after adopting these principles the FCC filed a formal complaint against the Comcast Corporation, alleging that the company had illegally block consumers from using the file-sharing site, BitTorrent.com. Comcast settled the case out-of-court and admitted no wrongdoing; Comcast then challenged the FCC's principles in the United States Appeals Court (Weisman, 2010). The court found in favor of Comcast, stating the FCC did not have the authority to regulate ISP's networks (Gross, 2010).

After the defeat in court the FCC decided to once again try and adopt net neutrality rules aimed at keeping the internet open. In December 2010, the FCC adopted rules forcing cable

Net Neutrality

companies to allow competitors access to their networks (Stanton, 2011). Shortly after this adoption Verizon and T-Mobile filed suit against the FCC, in the United States Appeals Court, alleging that the FCC did not have the authority to regulate broadband networks (Stanton, 2011). The court quickly threw out the lawsuit, because the official rules have yet to be published (Cheng, 2011). This fight has also moved beyond the court house to Capitol Hill.

Republicans and Democrats are on different sides of the Net Neutrality debate. Since 2010, Republicans have been in control of the House of Representatives. Republicans support ISP's right to control their own networks and support their businesses (Wyatt, 2011). Democrats support user's rights to fair access to Internet networks (Wyatt, 2011). Democrats currently have majority control in the Senate. In April the House of Representatives voted and approved House Joint Resolution 37 (Wyatt, 2011). This resolution restricts the FCC's authority over the Internet. Shortly after the President of the United States made a statement that he would veto the Bill if it ever reach his office. The bill has yet to come to a vote in the Senate.

Conclusion

Today, the Internet is a completely unregulated form of free speech (Has, 2007). Net Neutrality is the first attempt by a government agency to regulate the internet (Drake Law Review, 2010). This is a principle that aims to keep the internet fair and open for the public. This is an issue that affects everyone that uses the internet. Consumers care about this issue, because this principle will affect what content they may be allowed to experience on Internet networks and also how much they are going to pay for Internet access (Drake Law Review, 2010). This principle is important to businesses, because it will affect potential profits and will determine how much the government will be allowed to interfere with the Internet industry. This issue is

Net Neutrality

here to stay and will only become more crucial as the Internet becomes a larger part of our national landscape.

What is the Future of Net Neutrality?

The future of Net Neutrality is being decided right now. For consumers, Internet Service Providers will continue their practice of tiered pricing and they progressively charge more for internet use. On the legal front, even though the most recent lawsuit from Verizon was recently dropped, the authority of the FCC to enforce the Net Neutrality principle will once again be challenged by the ISP's through the court system. Congress is also deciding the future of this principle; with the Democrats currently controlling the Presidency and the Senate, it appears there will be no movement on House Joint Resolution 37. The future success of the internet will depend on the continued structure of its past (Jackson, 2011). For better or worse Net Neutrality is here to stay.

References

- Cheng, H., Bandyopadhyay, S., & Hong, G. (2011). The Debate on Net Neutrality: A Policy Perspective. *Information Systems Research*, 22(1), 60-82. doi:10.1287/isre.1090.0257
- ERICSON, B. (2010). "MÖBIUS-STRIP REASONING": THE EVOLUTION OF THE FCC'S NET NEUTRALITY NONDISCRIMINATION PRINCIPLE FOR BROADBAND INTERNET SERVICES AND ITS NECESSARY DEMISE. *Administrative Law Review*, 62(4), 1217-1260. Retrieved from EBSCOhost.
- Gross, Grant. "Court rules against FCC's Comcast net neutrality decision". Reuters. <http://www.reuters.com/article/2010/04/06/urnidgns852573c400693880852576fd0064cf-idUS44396209420100406>. Retrieved April 28, 2011.
- Guo, H., Bandyopadhyay, S., Cheng, H., & Yang, Y. (2010). Net Neutrality and Vertical Integration of Content and Broadband Services. *Journal of Management Information Systems*, 27(2), 243-275. doi:10.2753/MIS0742-1222270208
- Has, D. A. (2007). The Never-Was-Neutral-Net And Why End Users Can End The Neutrality Debates. *Berkeley Technology Law Journal*, 22(4), 1565-1635. Retrieved from EBSCOhost.
- Hogendorn, C. (2007). Broadband Internet: net neutrality versus open access. *International Economics & Economic Policy*, 4(2), 185-208. doi:10.1007/s10368-007-0084-6
- Internet Freedom Preservation Act of 2008, H.R. 5353. Federal Communication Commission 2008.
- Jackson, C. L. (2011). Wireless Efficiency Versus Net Neutrality. *Federal Communications Law Journal*, 63(2), 445-480. Retrieved from EBSCOhost.
- Joch, A. (2009). Net Neutrality: A Worldwide Debate. *Communications of the ACM*, 52(10), 15.

References Continued

Retrieved from EBSCOhost.

Livingston, T. A., & Binnig, C. F. (2010). Net Neutrality: Point and Counterpoint.

Infrastructure, 50(1), 3-7. Retrieved from EBSCOhost.

Larson, E. (2011). The Battle for the Net. *Research Technology Management*, 54(1), 3-5.

Retrieved from EBSCOhost.

Meinrath, S. D., & Pickard, V. W. (2008). Dollars and Sense: Net Neutrality: The New Rules.

Journal of Internet Law, 12(6), 1-21. Retrieved from EBSCOhost.

Pfister, F. W. (2007). Net Neutrality: An International Policy for the United States. *San Diego I*

International Law Journal, 9(1), 167-211. Retrieved from EBSCOhost.

Pil Choi, J., & Byung-Cheol, K. (2010). Net neutrality and investment incentives. *RAND Journal*

of Economics (Blackwell Publishing Limited), 41(3), 446-471. doi:10.1111/j.1756-2171.2010.00107.x

“Policy Statement” Federal Communications Commission. August 5, 2005. Retrieved April 29,

2011 from FCC.org.

Selwyn, L. L., & Golding, H. E. (2010). Revisiting the Regulatory Status of Broadband

InternetAccess: A Policy Framework for Net. Neutrality and an Open Competitive

Internet. *Federal Communications Law Journal*, 63(1), 91-139. Retrieved from

EBSCOhost.

Sharp, J. (2009). With Net Neutrality, Freedom through Regulation Is Not An Oxymoron. (cover

story). *Journal of Internet Law*, 13(6), 1-14. Retrieved from EBSCOhost.

Stanton, L. (2011). House Communications Panel Passes Resolution To Disapprove FCC's Net

References Continued

- Neutrality Rules. *Telecommunications Reports*, 77(6), 1-43. Retrieved from EBSCOhost.
- Weisman, D. L., & Kulick, R. B. (2010). Price Discrimination, Two-Sided Markets, and NetNeutrality Regulation. *Tulane Journal of Technology & Intellectual Property*, 1381-102. Retrieved from EBSCOhost.
- Why We Need Net Neutrality Legislation Now Or: How I Learned To Stop Worrying And Trust The FCC. (2010). *Drake Law Review*, 58(4), 1149-1184. Retrieved from EBSCOhost.
- Wyatt, Edward. House Votes Against 'Net Neutrality'. April 8, 2011. Retrieved April 25, 2011. <http://www.nytimes.com/2011/04/09/business/media/09broadband.html?src=busln>.

