## INTERACTIVE SESSION: ORGANIZATIONS

# THE BATTLE OVER NET NEUTRALITY

What kind of Internet user are you? Do you primarily use the Net to do a little e-mail and online banking? Or are you online all day, watching YouTube videos, downloading music files, or playing online games? Do you use your iPhone to stream TV shows and movies on a regular basis? If you're a power Internet or smartphone user, you are consuming a great deal of bandwidth. Could hundreds of millions of people like you start to slow the Internet down?

Video streaming on Netflix accounts for 32 percent of all bandwidth use in the United States, and Google's YouTube for 19 percent of Web traffic at peak hours. If user demand overwhelms network capacity, the Internet might not come to a screeching halt, but users could face sluggish download speeds and video transmission. Heavy use of iPhones in urban areas such as New York and San Francisco has already degraded service on the AT&T wireless network. AT&T reported that 3 percent of its subscriber base accounted for 40 percent of its data traffic.

Internet service providers (ISPs) assert that network congestion is a serious problem and that expanding their networks would require passing on burdensome costs to consumers. These companies believe differential pricing methods, which include data caps and metered use—charging based on the amount of bandwidth consumed—are the fairest way to finance necessary investments in their network infrastructures. But metering Internet use is not widely accepted, because of an ongoing debate about net neutrality.

Net neutrality is the idea that Internet service providers must allow customers equal access to content and applications, regardless of the source or nature of the content. Presently, the Internet is neutral: all Internet traffic is treated equally on a first-come, first-served basis by Internet backbone owners. However, this arrangement prevents telecommunications and cable companies from charging differentiated prices based on the amount of bandwidth consumed by the content being delivered over the Internet.

The strange alliance of net neutrality advocates includes MoveOn.org; the Christian Coalition; the American Library Association; data-intensive Web businesses such as Netflix, Amazon, and Google; major consumer groups; and a host of bloggers and small businesses. Net neutrality advocates argue that differentiated pricing would impose heavy costs on heavy bandwidth users such as YouTube, Skype, and other innovative services, preventing high-bandwidth startup companies from gaining traction. Net neutrality supporters also argue that without net neutrality, ISPs that are also cable companies, such as Comcast, might block online streaming video from Netflix or Hulu in order to force customers to use the cable company's on-demand movie rental services.

Network owners believe regulation to enforce net neutrality will impede U.S. competitiveness by discouraging capital expenditure for new networks and curbing their networks' ability to cope with the exploding demand for Internet and wireless traffic. U.S. Internet service lags behind many other nations in overall speed, cost, and quality of service, adding credibility to this argument. And with enough options for Internet access, dissatisfied consumers could simply switch to providers who enforce net neutrality and allow unlimited Internet use.

The wireless industry had been largely exempted from net neutrality rules, because the government determined it was a less mature network and companies should be allowed more freedom to manage traffic. Wireless providers already have tiered plans that charge heavy bandwidth users larger service fees.

A December 2012 report by the non-profit, non-partisan, public policy institute, New America Foundation (NAF), disputes these claims. Like personal computers, the processing capacity of the routers and switches in wired broadband networks has vastly expanded while the price has declined. Although total U.S. Internet data consumption rose 120% in 2012, the cost to transport the data decreased at a faster pace. The net cost to carriers was at worst flat and for the most part, down. The NAF report further asserts that lack of competition has enabled wired broadband carriers to charge higher rates, institute data caps, and spend less on the capital expenditures needed to upgrade and maintain their networks than they have in the past.

The courts have maintained that the Federal Communications Commission (FCC) has no authority to dictate how the Internet operates. The Communications Act of 1996 forbids the agency from managing the Internet as a "common carrier," the

regulatory approach the commission took toward telephones, and the FCC itself decided not to classify broadband as a telecommunications service.

On January 14, 2014, the U.S. Court of Appeals for the District of Columbia struck down the FCC's "Open Internet" rules that required equal treatment of Internet traffic and prevented broadband providers from blocking traffic favoring certain sites or charging special fees to companies that account for the most traffic. The court said the FCC saddled broadband providers with the same sorts of obligations as traditional "common carrier" telecommunications services, such as landline phone systems, even though the commission had explicitly decided not to classify broadband as a telecommunications service.

On April 24, 2014, the FCC announced that it would propose new rules that allow companies like Disney, Google or Netflix to pay Internet service providers like Comcast and Verizon for special, faster lanes to send video and other content to their customers. Broadband providers would have to disclose how they treat all Internet traffic and on what terms they offer more rapid lanes, and would be required to act in a "commercially reasonable manner." Providers would not be allowed to block Web sites. The proposed rules would also require Internet service providers to disclose whether, in assigning faster lanes, they had favored their affiliated companies that provide content.

Nevertheless, the FCC continues to push for an open Internet. On April 30, 2014, FCC chairman Tom Wheeler announced that lack of competition has hurt consumers, and that the FCC planned to write tough new rules to enforce net neutrality.

*Sources:* "Should the U.S. Regulate Broadband Internet Access as a Utility?" *Wall Street Journal*, May 11, 2014; Edward Wyatt, "Stern Talk From Chief of F.C.C. on Open Net," *New York Times*, April 30, 2014 and "F.C.C., in a Shift, Backs Fast Lane for Web Traffic," *New York Times*, April 24, 2014; Amol Sharma, "Netflix, YouTube Could Feel Effects of 'Open Internet' Ruling," *Wall Street Journal*, January 14, 2014; Gautham Nagesh, "FCC to Propose New 'Net Neutrality' Rules," *Wall Street Journal*, April 23, 2014; Shira Ovide, "Moving Beyond the Net Neutrality Debate," *Wall Street Journal*, January 14, 2014; Gautham Nagesh and Amol Sharma, "Court Tosses Rules of Road for Internet," *Wall Street Journal*, January 4, 2014; UpdAlina Selyukh," S. Court to Hear Oral Arguments in Net Neutrality Case on September 9," Reuters, June 25, 2013; and Hibah Hussain, Danielle Kehl, Benjamin Lennett, and Patrick Lucey, "Capping the Nation's Broadband Future? Dwindling Competition Is Fueling the Rise of Increasingly Costly and Restrictive Internet Usage Caps," New America Foundation, December 17, 2012.

## CASE STUDY QUESTIONS

1. What is net neutrality? Why has the Internet operated under net neutrality up to this point in time?
2. Who's in favor of net neutrality? Who's opposed? Why?
3. What would be the impact on individual users, businesses, and government if Internet providers switched to a tiered service model for transmission over land lines as well as wireless?
4. It has been said that net neutrality is the most important issue facing the Internet since the advent of the Internet. Discuss the implications of this statement.
5. Are you in favor of legislation enforcing network neutrality? Why or why not?

over to a global, multi-stakeholder community which will be determined in 2015. Multi-stakeholder means that the leadership of the global Internet would follow the pattern of ICANN and would be composed of representatives from academia, business, governments, and public interest groups rather than a government led or an inter-governmental body. Until this body is formed, the Internet domain name system will remain under the control of the Department of Commerce. The announcement came in part as a response to widespread global hostility to U.S. control over the DNS amidst the revelations of Edward Snowden, describing how U.S. intelligence agencies used the Internet to conduct surveillance over individuals and groups around the world even though such surveillance had nothing to do with the operations of ICANN or the Department of Commerce, but instead were enabled by other