



## Neutrality rhetoric and substance: for net, search, and platform neutrality

Marvin Ammori

- The concepts of “platform neutrality” and “search neutrality” seem to echo net neutrality, but net-neutrality advocates have rightly rejected the comparison.
- Net neutrality:
  - Cost structure: There are prohibitively high costs associated with replicating existing wired infrastructure that was originally built – and in many cases still co-owned – by the state. In wireless communications, providers manage spectrum, a scarce resource, allocated by governments through various processes. These characteristics are specific to telecommunications infrastructure, and similar ones apply to other forms of infrastructure such as electricity, water, natural gas and so forth.
  - Purpose: End to end principle. No blocking, no throttling, no access fees—why these rules for the “Inter-connected network.”
  - Violations: Around the world, many examples.
- Search neutrality:
  - Cost structure: Private competitors in search, low switching costs, no licenses, and many means to reach users including browser and social networks.
  - Purpose: Search is supposed to be discriminating—find best answer.
  - Violations: Around world, governments have concluded the complaints are not meritorious.
- Platform neutrality.
  - Cost structure: Open source technologies, nonexclusive agreements, competing device makers.
  - Purpose: Include apps for immediate use and download, permit search for most relevant apps.
  - Violations: Seem to lack substance.
- More detail here:  
<http://ammori.org/2012/05/22/search-neutrality-and-network-neutrality-birds-of-a-very-different-feather/>

## Op-Ed: 'Neutrality' Argument Is a Ruse in European Commission's Google Case

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The European Commission's recent formal objections outlining an antitrust case against Google Inc. claim that the company uses its search engine to benefit its own Google Shopping results over listings of other so-called "comparison shopping" sites.

The E.C.'s statement of objections issued in April makes little sense from a legal or economic perspective. In fact, it seems inspired by the interests not of consumers but of some of Google's competitors. The objections echo those made by big European incumbents — primarily telecom companies and publishers targeting U.S. companies, Google above all.

The E.C.'s arguments against Google are rather narrow and weak — that Google leverages its general search engine to harm competitors in specialized shopping searches. Five years ago, a U.K. comparison shopping company called Foundem brought the first antitrust complaint against Google to European regulators. It complained that Google punished it for being a competitor by demoting its search rankings. Google's defenders replied that Foundem was just repeating other sites' content, and that nobody "deserves" a certain amount of traffic from Google. Everyone wants to rank first in a Google search, but by definition not everyone can.

### WHERE IT BEGINS

When it comes to online shopping, consumers in the United States often begin at a shopping site, such as Amazon. The New York Times in 2014 reported that more than twice as many people began at Amazon, not a search engine, and that traffic to Amazon grew by 73 percent the previous year while Google Shopping searches had been flat. According to charts provided by Google on its blog, Amazon is the No. 1 shopping site throughout Europe, with Google way behind it.

Indeed, other companies are ahead of Google. The chief executive officer of eBay Inc. — a top shopping site here and abroad — stated the obvious: eBay is a direct competitor to Google Shopping. Social media are also a means of online shopping.

Facebook Inc., for example, is working on its own “graph search” and shopping ads.

Despite all this, European regulators have targeted Google Shopping and even suggested a broader desire to impose “platform neutrality” on a slew of U.S. tech companies. Europeans would apparently apply the concept of “neutrality” to what they call the “GAFA” — Google, Apple, Facebook and Amazon. Each is a U.S. company.

For years, Google's competitors have argued for a concept of “search neutrality,” a concept that professor James Grimmelmann of the University of Maryland Francis King Carey School of Law has demonstrated is both incoherent and impossible to enforce. And now Europe wants to expand a similarly fuzzy “neutrality” concept to Amazon, Apple and beyond.

The concept of “platform “neutrality” seems to echo net neutrality, but net-neutrality advocates have rightly rejected the comparison. Net neutrality and platform neutrality have nothing in common: one is important and necessary; the other is incoherent nonsense. And comparing the two cheapens the open Internet battles waged against last-mile control. A simple economic comparison explains why. There are multiple search engines to shop for products — Bing, DuckDuckGo, Yahoo, or Facebook, Yelp and Amazon. There is also an explosion of substitute products, such as apps, social networks, and new technologies such as Siri and Amazon Echo.

Not so with telecom networks. In the United States, for broadband speeds of 25 and up, 75 percent of Americans have fewer than two choices available. Moreover, the “switching costs” for search users are tiny: They can simply open a new browser window and go to Amazon or Bing. Try to switch away from Comcast. You may pay an early cancellation fee and spend 20 minutes on the phone arguing with a “retention” technician. Meanwhile, Foundem can sidestep Google in many ways to reach consumers. While the telecom network has terminating monopolies, high switching costs and lack of consumer competition, search technology has the opposite. Search features competition, extremely low switching costs, the availability of multiple different tools for consumer multihoming, and the emergence of new competitors infinitely more often than the once-every-century entry we see in the last mile. Plus, the remedy of net neutrality is clearly defined (no blocking, throttling or paid prioritization) while the remedy of platform or search neutrality is incoherent at best and forces regulators to redesign search pages and other online platforms at worst.

Some in Europe may believe that “search neutrality” or “platform neutrality” is good for consumers, but the opposite is true. Search engines are not supposed to be neutral; they're supposed to help users find the best websites for their queries.

Search engines select sites and answers, rather than provide the entire Internet neutrally.

“Neutrality” can be a good concept in the abstract. It is the right concept for last-mile networks, as the Federal Communications Commission has recognized. But there's a real danger that regulators and incumbent European telcos and publishers might co-opt the term to harm innovation and consumer choice in all “platforms.”

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