



REPORT Government Regulation

## **Net Neutrality Rules: Still a Threat to Internet Freedom**

February 12, 2014 11 min read

James Gattuso

Senior Research Fellow in Regulatory Policy

In a significant victory for American consumers, a federal appeals court struck down Federal Communications Commission (FCC) rules regulating broadband Internet service on January 14. The much-anticipated decision clears the way for more investment, more innovation, and lower costs for Internet users. But the political battle over these “network neutrality” rules—which limit differentiation and prioritization of Internet traffic—is far from over. Legislation to reinstate FCC controls will almost certainly be considered in Congress. And, encouraged by supportive language in the circuit court opinion, the FCC may take another shot at the issue itself.

Web users should wish these efforts no success. Net neutrality rules were a dangerously bad idea when adopted by the FCC in 2010, and the experience of the past three years has only made the dangers clearer.

What Is Net Neutrality?

The term “network neutrality” refers to the principle that the owners of broadband networks (such as Verizon and Comcast) that serve end-users should treat all communications travelling

over their networks alike. The concept is based on long-standing practice but had never been enshrined in a governmental rule or regulation. In fact, in 2005, the FCC specifically declared that broadband Internet service was not a “telecommunications service,” and thus not subject to common-carrier rules that bar variations in rates and services. Unlike traditional telephone companies and electric utilities, broadband providers would be free to establish their own business models in the marketplace.[1]

Get exclusive insider information from Heritage experts delivered straight to your inbox each week. Subscribe to The Agenda >>

This finding made sense. Broadband service was, and is, dynamic and growing, with the line between a successful investment and a failure a thin one. Differentiated offerings, such as discounts and priority-service plans are common in such markets. And, the market for broadband is a competitive one, with two or more major players in almost every service area, limiting the prospect for market abuse.

Nevertheless, at the same time that the FCC declared that broadband was not a “telecommunications service,” it adopted a set of “guidelines” articulating neutrality principles. Although the FCC’s principles were ostensibly non-binding, in 2008, the agency ordered Comcast to stop alleged violations. That effort was put to a stop in early 2010 by a federal appeals court, which ruled that the FCC had not demonstrated that it had authority to regulate broadband communications.[2]

In December 2010, the FCC returned to the issue, adopting formal rules limiting how Internet service providers (ISPs) could handle Internet traffic, and broadening its claim of authority. These net neutrality—or, as the FCC called them, “open Internet”—rules banned consumer wireline (DSL[3] and cable modem) broadband providers from “unreasonably discriminat[ing] in transmitting lawful network traffic,” and “block[ing] lawful content, applications, services, or “non-harmful” devices.”

Recognizing that wireless broadband service was especially dynamic and innovative, mobile service providers were subjected to slightly less burdensome rules. They were banned only from “block[ing] consumers from accessing lawful websites,” and “applications that compete with the provider’s voice or video telephony services.”[4]

Lastly, all providers were required to disclose their network management practices to the public.

The rules did not bar all forms of differentiation. Even the FCC recognized the limits of absolute neutrality. With increasing demands on the Internet, some steps to manage traffic (such as controlling bandwidth-hogging users) are critical. More generally, certain types of prioritization common in other industries—such as selling premium or discount access to certain web content providers—would also benefit users.

To address such beneficial differentiation, the FCC exempted “reasonable network management.” But exactly what was “reasonable” was left undefined. The rules offered only vague and circular guidance, such as: “Reasonable network management shall not constitute unreasonable discrimination.” This, of course, vested vast discretion in the five FCC members, who would determine case-by-case which ISP actions were acceptable and which ones were not.[5] As a result, the FCC’s ostensible softening of the rule by exempting “reasonable” management practices actually increased the agency’s power once again.

The new rules were soon challenged in court by Verizon, claiming that the FCC lacked jurisdiction over broadband service. Last month’s decision was the result of that litigation. As was the case in 2010, the FCC’s rules were slapped down.[6] Specifically, the court found that the regulations imposed on the ISPs were, in effect, common-carrier regulations. Since the FCC had previously ruled that the broadband service providers were not “telecommunication providers,” the FCC was barred by law from imposing common-carrier regulations on them. End of the Internet?

In the wake of the decision, there have been many dire but ill-founded predictions as to what the effects will be. Craig Aaron of the pro-regulation group Free Press argued that exclusive deals among providers “could become the norm, with AT&T exclusively bringing you Netflix, while Time Warner Cable is the sole source for YouTube.” He sees privacy and choice heading toward the ash heap of history, saying “it won’t be long before your ISP requires you to connect via their list of approved devices and then uses those devices to literally watch you.” To the question “Is this the end of the Internet?” he answers “maybe.”[7]

Michael Weinberg of the advocacy group Public Knowledge similarly cites a parade of horrors, including degraded service, higher costs, and less innovation, due to higher fees and restricted choices.[8]

Advocates of regulation, however, have been making such Chicken Little-esqe predictions for years, and they never seem to come true.[9] ISPs are more interested in gaining users than driving them away. There has, in fact, been only one recorded case where an ISP clearly

attempted to block Internet content for its own benefit.[10] In the vast majority of cases, the imagined outrages of ISPs sabotaging rivals and extracting ruinous fees are just that, imagined.

Certainly, ISPs have the technical ability to block or impede certain services and websites. But they are hardly unique in that regard. Many firms, including Google—a longtime supporter of neutrality regulation—have similar abilities. Google, however, does not engage in inappropriate discrimination for the same reason that Verizon and Comcast do not: competition. Blocking websites or impeding disfavored services would quickly send customers packing to another provider.

A look at the actual disputes that have arisen under net neutrality over the past three years supports this conclusion. None of the instances where a violation of the rules was alleged involved a dominant provider abusing its market power. Nor did any involve additional fees; in fact, the most controversial practice involved a shift of fees away from consumers. On the other hand, the major controversies involved attempts to game the system, increase costs to consumers, and hinder competitive challenges. The disputes included:

**Gaming the System: Comcast v. Level 3 Fee.** In November 2010, as the FCC was finalizing its now-void neutrality rules, a dispute broke out between Comcast and Internet “backbone”[11] provider Level 3. As is common among such long-haul service providers, the two had long operated under a “peering” arrangement by which the two networks interconnected to allow them to transport traffic from its origin to its destination. Because the traffic load was about even in both directions, neither side paid a fee to the other.

This balance changed when Level 3 won a contract to carry content for Netflix, whose online video service was rapidly growing. At the time of the deal, Netflix accounted for 20 percent of all broadband traffic during peak hours.[12] That meant that the amount of traffic that Level 3 sent to Comcast to deliver would balloon to five times the amount going the other way.[13]

When Comcast asked to be paid for its additional interconnection service, pointing out that the traffic flows were now far from even, Level 3 balked. Comcast’s fees, it argued, were a form of discrimination, unacceptable under neutrality principles. Neutrality restrictions, of course, were never meant to restrict firms in the highly competitive backbone Internet business, so Level 3—pointing to its Netflix business—simply redefined itself as a content provider for Netflix. Online petitions were soon circulating, asking the FCC to “Stop Comcast

from blocking Netflix.”[14] Level 3 was expertly gaming the still-nascent rules. As Randolph May of the Free State Foundation put it at the time:

Level 3, no stranger to Washington’s regulatory playing fields, has converted what [ heretofore has been an ordinary commercial negotiation over the fees, if any, applicable to 1 peering arrangements between two interconnecting Internet providers into a complaint 5 sounding in—surprise!—net neutrality. ]

In the end, the two firms negotiated a compromise without FCC involvement. But the case shows how the blurry concept of neutrality can be gamed by players looking for a regulatory advantage in the marketplace.

**No Lack of Competition: AT&T and Facetime.** In 2012, Apple upgraded its popular Facetime application to enable consumers to use it over mobile phone networks. Previously consumers could only use it when accessing the Internet via Wi-Fi connections, and not through wireless telephone links. Despite Apple’s move, AT&T continued to limit Facetime usage on its own, only allowing subscribers of its “Mobile Share” unlimited data use plan to use it on the wireless telephone network. The restriction was necessary, AT&T argued, to protect its subscribers from congestion caused by a suddenly increased traffic load caused by the highly bandwidth intensive Facetime video service.

Critics immediately slammed the decision as illegal blocking of an application in violation of FCC neutrality rules.[16] But if AT&T’s aim was to stifle Facetime, it chose an odd way to do it. The Facetime app was pre-loaded onto AT&T devices when sold, a step hardly designed to impede use.[17] Moreover, AT&T itself was selling no product in competition to Facetime, leaving it little motive to block it. But AT&T and its customers did have a real interest in protecting users from congestion caused by the Facetime application.

Verizon, AT&T’s main competitor, made a different decision, allowing unconditional Facetime use (and giving consumers a choice). Within a year, AT&T had dropped its restrictions as well, also without FCC interference.

**Quashing New Competition: Google Fiber.** Google, long one of the staunchest supporters of net neutrality rules, has itself been accused of violating those rules. The case involved Google Fiber, a broadband ISP run by Google. Under the terms of service issued by Google Fiber, subscribers were not to run “servers” on Google Fiber connections. Google Fiber, the company explained, was intended as a consumer service, not a business service. Still, a

consumer in Kansas filed a complaint against Google with the FCC, citing the neutrality rules' ban on blocking "non-harmful devices."

Google Fiber is a new entrant into the ISP marketplace. It is a major initiative by Google, intended to challenge the major incumbent broadband providers by creating a new competitor to their networks.

The complaint posed an obstacle to this pro-consumer effort. But rather than reduce unnecessary barriers to this welcome competition, the FCC's interference would simply have added another barrier. And, given Google's total lack of market power in this marketplace, there was no plausible benefit for consumers.

Google's response to the FCC on the matter argued that the server ban was "reasonable network management," exempt from regulation. The FCC took no further action.[18] Google Fiber has since continued to expand, challenging the leading ISPs in a small but growing number of cities.

**Making the Consumer Pay: AT&T and Sponsored Data.** In January, just weeks before the FCC's neutrality rule was overturned, AT&T unveiled an innovative pricing plan for wireless services known as "sponsored data." The idea is simple—participating content providers would pick up any data charges incurred by consumers when using their sites. By freeing potential users from the risk of exceeding their data caps and being hit with additional charges, the plan encourages them to spend more time on each site.

For instance, the ESPN sports network has been trying to build up its online offerings in a bid to create an alternative to traditional cable TV systems in the delivery of sports programs.[19] One major concern of ESPN strategists is that viewers may balk, not knowing whether watching their favorite teams online would put them over their data cap and end up costing them a fortune in excess use charges. Under a sponsored data plan, that risk would be covered by ESPN, not the consumer. It would be like offering 800 numbers for the web, with content providers paying the cost of connection, but getting more business in return.

But the idea set off alarm bells in the net neutrality community. When ESPN was reported to be considering a similar deal with Verizon last year, pro-regulation groups immediately cried foul, with one posting a commentary titled: "This Is What a Net Neutrality Violation Looks Like." [20]

They were wrong. Since it only applies to wireless service, the plan never ran afoul of net neutrality limits. Even more important, the proposed system is good for consumers, who pay less for more, and for businesses on the web, who generate more traffic. Such arrangements are common and beneficial marketplace tools—especially when new services and technologies are involved.

Net neutrality advocates still fret that the plan will disadvantage some firms. According to Free Press policy director Matt Wood:

Content and app providers that can't pay this new toll to reach customers will be at a huge disadvantage, and may never get off the ground in the first place if they can't afford AT&T's 2 sponsor fees. Letting the carriers charge more or less money to reach certain sites is 1 discriminatory, and it's not how the Internet is supposed to work. ]

But there is no new toll here—websites are merely providing a discount for consumers.

Some content providers will be able to match them, others not. That is exactly how a marketplace, and the Internet, is supposed to work, and hardly justifies regulation.

#### Next Steps

The federal appeals court decision will not end the long-running debate over net neutrality. To the contrary, it will likely signal a new round of activity. Proposals are already being introduced in Congress to restore the rules.[22] Such legislation will face an uphill fight—in fact, in 2011, the House of Representatives passed legislation to overturn the regulation. But eventual passage of the legislation cannot be ruled out.

The most likely neutrality battleground, however, is—once again—the FCC. The court's opinion, in fact, all but invited the FCC to take another shot at imposing net neutrality rules. Despite its rejection of the regulation as written, the court did find that the agency had general power to regulate broadband Internet service.[23] Thus, although the specific rules did not pass muster, other forms of regulation could be upheld. No doubt with this in mind, Tom Wheeler, the FCC's chairman, has already stated that the agency will “revisit” the neutrality issue.[24]

Opponents of FCC neutrality regulation could also take the initiative, with legislation to reverse the court's ruling on broad regulatory powers. This would also be an uphill fight, but would close a potentially dangerous avenue for new regulation.

#### Conclusion

Consumers should cheer the recent appeals court decision voiding the FCC's net neutrality rules. Despite the Chicken Little claims of its supporters, broadband consumers were hurt, not helped by the agency's restrictions. Rather than guarding against market abuses by dominant firms, the rules have been invoked in attempts to hinder innovation, impede competition, and block consumer price protections. Policymakers in Congress and at the FCC should not restore these unnecessary and harmful regulations.

—James L. Gattuso is Senior Research Fellow for Regulatory Policy in the Thomas A. Roe Institute for Economic Policy Studies at The Heritage Foundation.

### **Get Inside Information on the Policies Shaping America**

Each week, The Heritage Foundation publishes a limited-release newsletter with all of the latest news and updates on the critical policy issues being discussed on the Hill. Stay in the know when you sign up today.

First Name:

Last Name:

Email:

[1] James L. Gattuso, "Broadband Regulation: Will Congress Neuter the Net?" Heritage Foundation Backgrounder No. 1941, June 2, 2006, <http://www.heritage.org/research/reports/2006/06/broadband-regulation-will-congress-neuter-the-net>.

[2] Comcast Corp. v. FCC, 600 F.3d 642 (D.C. Cir., 2010).

[3] DSL stands for digital subscriber line.

[4] "Open Internet Order," 25 F.C.C. Record 7866 (2010).

[5] James L. Gattuso, "Net Neutrality: Time for Congress to Act," Heritage Foundation Backgrounder No. 3183, March 7, 2011, <http://www.heritage.org/research/reports/2011/03/net-neutrality-time-for-congress-to-act>.

[6] Verizon v. FCC, No. 11-1355 (slip op., D.C. Cir., Jan. 14, 2014), <http://www.scribd.com/doc/199616222/DC-Net-Neutrality-ruling> (accessed February 3,



2014).

[7] Craig Aaron, “Does This Ruling Mean The End of the Internet? Maybe,” The Daily Beast, January 15, 2014, <http://www.thedailybeast.com/articles/2014/01/15/does-this-ruling-mean-the-end-of-the-internet-maybe.html> (accessed February 4, 2014).

[8] Susanna Kim, “Five Ways the Internet Will Change Without Net Neutrality,” ABC News, January 15, 2014, <http://abcnews.go.com/Business/major-ways-internet-change-net-neutrality/story?id=21541399> (accessed February 6, 2014).

[9] James Gattuso, “The Chicken Littles of Broadband,” The Heritage Foundation, The Foundry, October 5, 2009, <http://blog.heritage.org/2009/10/05/the-chicken-littles-of-broadband/>.

[10] Declan McCullough, “Telco Agrees to Stop Blocking VOIP Calls,” CNET News, March 3, 2005, [http://news.cnet.com/Telco-agrees-to-stop-blocking-VoIP-calls/2100-7352\\_3-5598633.html](http://news.cnet.com/Telco-agrees-to-stop-blocking-VoIP-calls/2100-7352_3-5598633.html) (accessed February 4, 2014).

[11] A backbone provider offers long-haul, wholesale, data transport between service providers.

[12] Cecilia Kang, “Level 3 Communications Calls Comcast Fees for Netflix Feeds Unfair,” The Washington Post, November 29, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/11/29/AR2010112907024.html> (accessed February 4, 2014).

[13] Marguerite Reardon, “Understanding the Level 3-Comcast spat (FAQ),” CNET News, November 30, 2010, [http://news.cnet.com/8301-30686\\_3-20024197-266.html](http://news.cnet.com/8301-30686_3-20024197-266.html) (accessed February 4, 2014).

[14] Nancy Gohring, “FCC Looks Into Level 3, Comcast Content Dispute,” PC World, November 30, 2010, <http://www.pcworld.com/article/212078/article.html> (accessed February 4, 2014).

[15] Randolph J. May, “The FCC’s Fatal Conceit,” The Free State Foundation Perspectives from FSF Scholars Vol. 5, No. 29 (December 5, 2010), [http://www.freestatefoundation.org/images/The\\_FCC\\_s\\_Fatal\\_Conceit.pdf](http://www.freestatefoundation.org/images/The_FCC_s_Fatal_Conceit.pdf) (accessed February 4, 2014).

[16] Esther Shein, “AT&T Blocks Facetime, Net Neutrality Complaint Filed,” Information Week, September 21, 2012, <http://www.informationweek.com/consumer/atandt-blocks-facetime-net-neutrality-complaint-filed/d/d-id/1106448> (accessed February 4, 2014).

[17] Bob Quinn, “Enabling Facetime Over Our Mobil Broadband Network,” AT&T Public Policy Blog, August 22, 2012, <http://www.attpublicpolicy.com/fcc/enabling-facetime-over-our-mobile-broadband-network/> (accessed February 2014).

- [18] For a discussion of the Google Fiber controversy, see Paul Venezia, “No, Google Fiber Doesn’t Violate Net Neutrality: Let’s Not Undermine the Net Neutrality Fight with Poor Interpretations,” Infoworld, August 5, 2013. <http://www.infoworld.com/d/data-center/no-google-fiber-doesnt-violate-net-neutrality-223828> (accessed February 4, 2014).
- [19] Shalini Ramachandran, Amol Sharma and Matthew Futterman, “ESPN’s Internet Rollout Tests Television Cash Cow,” The Wall Street Journal, January 27, 2014, <http://online.wsj.com/news/articles/SB10001424052702304603704579326781949947414?mg=reno64-wsj&url=http%3A%2F%2Fonline.wsj.com%2Farticle%2FSB10001424052702304603704579326781949947414.html> (accessed February 4, 2014).
- [20] Michael Weinberg, “FCC: This Is What a Net Neutrality Violation Looks Like,” Public Knowledge Policy Blog, May 10, 2013, <http://www.publicknowledge.org/blog/fcc-what-net-neutrality-violation-looks> (accessed February 4, 2014).
- [21] Free Press, “AT&T Sponsored Data Scheme Is a Lose–Lose for Customers and App Makers,” January 6, 2014, <http://www.freepress.net/press-release/105490/att-sponsored-data-scheme-lose-lose-customers-and-app-makers> (accessed February 4, 2014).
- [22] Marguerite Reardon, “New Senate, House Bills Would Restore Net Neutrality,” CNET, February 3, 2014, [http://news.cnet.com/8301-13578\\_3-57618273-38/new-senate-house-bills-would-restore-net-neutrality/](http://news.cnet.com/8301-13578_3-57618273-38/new-senate-house-bills-would-restore-net-neutrality/) (accessed February 5, 2014).
- [23] Specifically, the court ruled that section 706 of the 1996 Telecommunications Act gave the FCC the necessary powers. This section provides that if the FCC finds that “advanced services” are not being deployed in a “reasonable and timely” manner, the agency must take steps to remove barriers to investment and to promote competition. This conclusion was odd to say the least. Section 706 was adopted as a deregulatory tool to ensure that government rules do not hinder Internet growth. Now the language has been turned on its head, authorizing even more regulation. See James L. Gattuso, “Net Neutrality and the Courts: The FCC’s Shaky Legal Case for Internet Regulation,” Heritage Foundation Commentary, February 10, 2011, <http://www.heritage.org/research/commentary/2011/02/net-neutrality-and-the-courts-the-fccs-shaky-legal-case-for-internet-regulation>.
- [24] Bryce Baschuk, “FCC Chief Says Agency Will Revisit Open Internet Order,” Bloomberg BNA, January 23, 2014, <http://www.bna.com/fcc-chief-says-n17179881531/> (accessed February 4, 2014).

## **Authors**

James Gattuso

Senior Research Fellow in Regulatory Policy



Monday, November 27, 2017

## OPINION

# Why Ajit Pai's decision killing Obama's net neutrality FCC regulation is good

by Washington Examiner | Nov 27, 2017, 12:01 AM

*Federal Communications Commission Chairman Ajit Pai announced last week that the FCC would roll back "net neutrality," which led to many complaints from Democrats. But they need to answer this: Why is it better for the federal government rather than customers to decide how networks should handle data? (Federal Communications Commission via Wikimedia Commons)*

Sometimes you have to wonder how sincere people are when they gnash their teeth and pull out their hair over President Trump blocking or reversing an Obama-era regulation.

The latest cries of distress about anarchy and market apocalypse can be heard about an announcement by the Federal Communications Commission that it will **roll back "net neutrality."**

Net neutrality's dubious value is made obvious by the misleading way Democrats and many news outlets reported the decision. "F.C.C. plans net neutrality repeal in a victory for telecoms," wrote the New York Times. Missing from the headline or lede was that the decision was a loss for Netflix, Amazon, Google, and other corporate giants that provider content.

This is the Democratic line. By portraying deregulation as a bonbon for Big Business, and concealing the hit taken by some of the biggest businesses (see above), these partial accounts avoid debating the issue on its merits and dwindle into demagoguery, where they are comfortable. This is an established pattern with net neutrality. When the FCC voted in 2015 to impose net neutrality rules, the text of the relevant order wasn't published until after the vote.

So, let's look at the merits. Net neutrality is, generally, good in principle, for it lays down the law that the networks over which we get information should not discriminate between one type of information and another. For example, it would be wrong if AT&T prevented its Internet customers from searching for prices charged by other cellphone providers. You wouldn't want Comcast blocking access to articles complaining about its customer service.

But a general principle of that sort is often best not codified in a written regulation.

One reason is that the market will take care of wrongdoers. Comcast would lose Internet customers if, for example, it only allowed those customers to see MSNBC (Comcast's sister company) for news.

Net neutrality regulation also effectively outlaws competing business models, which are good for customers and the economy as a whole. Competing business models allow experimentation, and this leads to providers serving customers better by meeting their needs more precisely.

**Also read:** *The net neutrality truth is nowhere near the media's scaremongering*

Consider the possibility of Internet "fast lanes." As telemedicine becomes an increasingly important part of healthcare, wouldn't you want your surgeon to be able to buy access to an express lane in which a network was allowed to grant privilege to certain data over others? That is, AT&T should be allowed to provide a service in which data bytes flowing between an operating room and a surgeon take precedence over bytes of 100 dudes Googling to find out whether Jennifer Lawrence is married.

Maybe consumers will prefer neutrality. But guess what? If they do, many network providers will offer more neutral business models. Others will offer a tier-based model. Portugal has no net neutrality regulations, and mobile Internet providers mostly offer bundles, where you pay to have access to a bundle of online services.

Why is it better for the federal government rather than customers to decide how networks should handle data? It's perplexing that the option of government controlling data flow should be welcomed, especially at a time when so many people are freaking out of the admittedly silly fear that Trump is an anti-free-speech authoritarian.

The FCC's move last week will leave Internet business models to compete in the marketplace rather than competing in smoke-filled rooms for the favor of regulators. This deserves applause from everyone, except for those who love regulation as a good in itself.

# Net Neutrality: What You Need to Know Now



When you go online you have certain expectations. You expect to be connected to whatever website you want. You expect that your cable or phone company isn't messing with the data and is connecting you to all websites, applications and content you choose. You expect to be in control of your internet experience.

When you use the internet you expect Net Neutrality.

Net Neutrality is the basic principle that prohibits internet service providers like AT&T, Comcast and Verizon from speeding up, slowing down or blocking any content, applications or websites you want to use. Net Neutrality is the way that the internet has always worked.

In 2015, millions of activists pressured the Federal Communications Commission to adopt historic Net Neutrality rules that keep the internet free and open — allowing you to share and access information of your choosing without interference.

But right now this win is in jeopardy: Trump's FCC chairman, Ajit Pai, wants to destroy Net Neutrality. In May, the FCC voted to let Pai's internet-killing plan move forward. By the end of the summer, the agency was flooded with more than 20 million comments. The vast majority of people commenting urged the FCC to preserve the existing Net Neutrality rules.

**Time is running out:** The FCC will vote on Pai's proposal on Dec. 14. [Join the millions](#) who have already spoken out against it.

## What is Net Neutrality?

Net Neutrality is the internet's guiding principle: It preserves our right to communicate freely online.

Net Neutrality means an internet that enables and protects free speech. It means that ISPs should provide us with open networks — and shouldn't block or discriminate against any applications or content that ride over those networks. Just as your phone company shouldn't decide who you call and what you say on that call, your ISP shouldn't interfere with the content you view or post online.

Without Net Neutrality, cable and phone companies could carve the internet into fast and slow lanes. An ISP could slow down its competitors' content or block political opinions it disagreed with. ISPs could charge extra fees to the few content companies that could afford to pay for preferential treatment — relegating everyone else to a slower tier of service. This would destroy the open internet.

## What would happen if we lost Net Neutrality?

The internet without Net Neutrality isn't really the internet. Unlike the open internet that has paved the way for so much innovation and given a platform to people who have historically been shut out, it would become a closed-down network where cable and phone companies call the shots and decide which websites, content or applications succeed.

This would have an enormous impact. Companies like AT&T, Comcast and Verizon would be able to decide who is heard and who isn't. They'd be able to block websites or content they don't like or applications that compete with their own offerings.

The consequences would be particularly devastating for marginalized communities media outlets have misrepresented or failed to serve. People of color, the LGBTQ community, indigenous peoples and religious minorities in the United States rely on the open internet to

organize, access economic and educational opportunities, and fight back against systemic discrimination.

Without Net Neutrality, how would activists be able to fight oppression? What would happen to social movements like the Movement for Black Lives? How would the next disruptive technology, business or company emerge if internet service providers only let incumbents succeed?

### **Didn't we already win strong Net Neutrality rules?**

Yes. After a decade-long battle over the future of the internet, the FCC adopted strong Net Neutrality rules based on Title II of the Communications Act, giving internet users the strongest protections possible.

But ever since then opponents have done everything they can to destroy Net Neutrality. And Chairman Pai — a former Verizon lawyer — is moving fast to destroy the open internet. **He must be stopped.**

### **Why is Title II so important?**

Courts rejected two earlier FCC attempts to craft Net Neutrality rules and told the agency that if it wanted to adopt such protections it needed to use the proper legal foundation: Title II. In February 2015, the FCC did just that, giving internet users the strongest possible Net Neutrality rules when it reclassified broadband providers as common carriers under Title II. Title II gives the FCC the authority it needs to ensure that companies like AT&T, Comcast and Verizon can't block, throttle or otherwise interfere with web traffic. Title II preserves the internet's level playing field, allowing people to share and access information of their choosing. These rules have ushered in a historic era of online innovation and investment — and have withstood two court challenges from industry.

But Chairman Pai wants to ditch Title II and return the FCC to a "light touch" Title I approach. Translation: Pai wants to give control of the internet to the very companies that violated Net Neutrality for years before the FCC adopted its current rules in 2015. Title I would do nothing to protect internet users like you.

### **Who's attacking Net Neutrality?**

Big phone and cable companies and their lobbyists filed suit almost as soon as the Net Neutrality rules were adopted. Free Press jumped in and **helped argue the case** defending the FCC — and on June 14, 2016, a federal appeals court **upheld the open-internet protections in all respects**. However, the ISPS are still trying to challenge these rules in court.

Meanwhile, industry-funded Net Neutrality opponents in Congress have done everything they can to dismantle or undermine the rules. Legislators have **introduced numerous deceptive bills** and attached **damaging riders** to must-pass government-funding bills.

The millions of people who spoke out in support of Net Neutrality are fired up and ready to fight back — and **you can join them here**.

### **Why is Net Neutrality crucial for communities of color?**

The open internet allows people of color to tell their own stories and organize for racial and social justice. When activists are able to turn out thousands of people in the streets at a moment's notice, it's because ISPs aren't allowed to block their messages or websites.

The mainstream media have long misrepresented, ignored and harmed people of color. And thanks to systemic racism, economic inequality and runaway media consolidation, people of color own just a handful of broadcast stations. The lack of diverse ownership is a primary reason why the media have gotten away with criminalizing and otherwise stereotyping communities of color.

The open internet allows people of color and other vulnerable communities to bypass traditional media gatekeepers. Without Net Neutrality, ISPs could block speech and prevent dissident voices from speaking freely online. Without Net Neutrality, people of color would lose a vital platform.

And without Net Neutrality, millions of small businesses owned by people of color wouldn't be able to compete against larger corporations online, which would deepen economic disparities.

### **Why is Net Neutrality important for businesses?**

Net Neutrality is crucial for small business owners, startups and entrepreneurs, who rely on the open internet to launch their businesses, create markets, advertise their products and services, and reach customers. We need the open internet to foster job growth, competition and innovation.

Net Neutrality lowers the barriers of entry by preserving the internet's fair and level playing field. It's because of Net Neutrality that small businesses and entrepreneurs have been able to thrive online.

No company should be allowed to interfere with this open marketplace. ISPs are the internet's gatekeepers, and without Net Neutrality, they would seize every possible opportunity to profit from that gatekeeper position.

Without Net Neutrality, the next Google or Facebook would never get off the ground.

### **What can we do now?**

Chairman Pai wants to replace the agency's strong rules with "voluntary" conditions that no ISP would ever comply with. Pai unveiled his plan in a closed-door meeting with industry lobbyists in April 2017 and officially kicked off a proceeding on May 18, 2017, when the FCC voted along party lines to move this proposal forward. Since then the agency has been swamped by tens of millions of comments from internet users who want to keep the protections in place.

Pai is ignoring the public outcry, and the FCC will vote on his Net Neutrality-killing plan on Dec. 14. **Urge the agency to ditch this plan**, and **tell your members of Congress** to condemn Pai's attack on the open internet.

The Trump administration is doing everything in its power to clamp down on dissent. If we lose Net Neutrality, it will have succeeded.



OpenID Login

OpenID:

Log In

[authorization help]

Username: \*

Password: \*

Log in

Request new password

Browse archives

<< December 2008

Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

You are here: [Home](#) » [blogs](#) » [timbl's blog](#) » [Net Neutrality: This Is Serious](#)

## Net Neutrality: This is serious

Submitted by [timbl](#) on Wed, 2006-06-21 16:35. :: [Public Policy and the Web](#)

( [real video](#), [download m4v](#) )



When I invented the Web, I didn't have to ask anyone's permission. Now, hundreds of millions of people are using it freely. I am worried that that is going end in the USA.

I blogged on net neutrality before, and so did a lot of other people. (see e.g. [Danny Weitzner](#), [SaveTheInternet.com](#), etc.) Since then, some telecommunications companies spent a lot of money on public relations and TV ads, and the US House seems to have wavered from the path of preserving net neutrality. There has been some misinformation spread about. So here are some clarifications. ( [real video](#) Mpegs to come)

Net neutrality is this:

*If I pay to connect to the Net with a certain quality of service, and you pay to connect with that or greater quality of service, then we can communicate at that level.*

That's all. Its up to the ISPs to make sure they interoperate so that that happens.

Net Neutrality is NOT asking for the internet for free.

Net Neutrality is NOT saying that one shouldn't pay more money for high quality of service. We always have, and we always will.

There have been suggestions that we don't need legislation because we haven't had it. These are nonsense, because in fact we

### Recent blog posts

[The paradox of information flow in transition](#)

[First legal shot across the Semantic Web's bow - Thomson suing Zotero](#)

[Justice Brandeis and privacy protection through usage restriction](#)  
[Will John McCain help the NEXT Blackberry creator?](#)

[The details of data in documents: GRDDL, profiles, and HTML5](#)

[Microsoft on the need for openness in scholarly tools and data](#)

[Conflicting voices in the liberal mainstream on FISA](#)

[Google, Viacom, Privacy and Copyright meet the social web](#)

[A Political Denial of Service \(PDOS\) attack on blogger.com?](#)

[Important New Jersey Supreme Court decision in Internet privacy](#)

[more](#)

Control of information is hugely powerful. In the US, the threat is that companies control what I can access for commercial reasons. (In China, control is by the government for political reasons.) There is a very strong short-term incentive for a company to grab control of TV distribution over the Internet even though it is against the long-term interests of the industry.

Yes, regulation to keep the Internet open is regulation. And mostly, the Internet thrives on lack of regulation. But some basic values have to be preserved. For example, the market system depends on the rule that you can't photocopy money. Democracy depends on freedom of speech. Freedom of connection, with any application, to any party, is the fundamental social basis of the Internet, and, now, the society based on it.

Let's see whether the United States is capable as acting according to its important values, or whether it is, as so many people are saying, run by the misguided short-term interested of large corporations.

I hope that Congress can protect net neutrality, so I can continue to innovate in the internet space. I want to see the explosion of innovations happening out there on the Web, so diverse and so exciting, continue unabated.

[timbl's blog](#) | [login](#) to post comments

### Comment viewing options

Threaded list - expanded ▼ Date - newest first ▼

50 comments per page ▼ [Save settings](#)

*Note: Select your preferred way to display the comments and click "Save settings" to activate your changes.*

**[well said...](#)**