

## Net Neutrality Complaint Against AT&T Plan To Cash In On App Economy

AT&T has **announced a new scheme** that is wholly incompatible with an open Internet and could threaten the vibrant and growing app economy. Its idea is to charge app developers to have the data their apps use exempt from data usage caps, opening up grand new possibilities for double dipping.

App developers have succeeded in bringing value to consumers precisely because the app marketplace has low barriers to entry--a mobile game from EA or productivity app from Apple or Microsoft competes on even terms with software from small companies and one-man shops. AT&T's plan would give an advantage to deep-pocketed app developers and do serious damage to this innovative sector.

For years carriers have felt entitled to grab a piece of the action on all the traffic that's sent over their networks--their dream being to charge consumers for Internet access, and to charge Internet companies for consumer access. AT&T would **love** to figure out how to send two bills for providing one service. The problem with this has been that it's bad PR, and possibly illegal.

But never underestimate AT&T's creativity. After all, this is a company that figured out that sometimes two is bigger than three, when it decided that its "unlimited" data plan users get throttled when using as little as **2.1 GB** while simultaneously offering unthrottled 3 GB plans. The creative way to charge more for providing less is to do so in a confusing way that's not immediately apparent to subscribers on their monthly bills (like with ever-longer service contracts, termination penalties, and other random fees) and to describe what you're doing with plausible-sounding but ultimately inapt metaphors (it describes this latest plan as the "equivalent of 800 numbers," for instance).

Of course, whether or not consumers see an increase on their bills right away, they'll ultimately pay the price if AT&T's plan takes hold. Apps will cost more and there will be fewer of them, and AT&T will lose some of its incentive to upgrade its network when it profits so handsomely from double-charging for scarcity.

Carving out exemptions for certain apps from data caps has always been one of the reasons why metered and capped plans have sounded so many alarm bells among advocates of Internet openness. Paid-for data cap exemptions are no different than ISPs' perennial dream of charging Youtube or Netflix for a "fast lane" to consumers. Unfortunately because the wireless carriers won a pretty big exemption to the FCC's Open Internet rules for wireless services, whether this plan violates the letter or merely the spirit of the law will require a deeper analysis.

One thing is clear, however. In 2005 Ed Whitacre, then the CEO of AT&T, issued **these deathless remarks** in response to a question about "upstarts" like Google:

Now what they would like to do is use my pipes free, but I ain't going to let them do that because we have spent this capital and we have to have a return on it. So there's going to have to be some mechanism for these people who use these pipes to pay for the portion they're using. Why should they be allowed to use my pipes?

This perfectly sums up AT&T's "gimme some of that" mentality. It's now fixed its hunter's eye on the smaller game of app developers instead of the elephant of Google, but it's still hungry.

